



Strengthening LGBTQI+'s Voice in Politics

National Report - Italy

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WP2_D2.7_National Report - Italy



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1. Introduction

Individuals who identify as LGBTQI+¹ or are perceived as LGBTQI+ by the society still face high levels of various forms of discrimination, harassment, violence, hate crimes and victimisation in several areas of their life. The recent Agency on Fundamental Rights of the European Union - EUFRA - survey of 140,000 LGBTI² carried out in 30 countries (EUFRA 2020) does not seem to highlight a great improvement in this group's rights if compared with the survey carried out in 2012 (EUFRA 2013), even though a more open attitude towards it seems to emerge in the general public. In fact, on the one hand, discrimination spans from the access to work for people who openly express their gender identity or sexual orientation to family rights and low levels of political participation. Results show that LGBTI people continue to face multiple and overlapping forms of discrimination. 11% of respondents said they felt discriminated against when looking for work, only a 2% decrease from 2012. For those who felt discriminated against at work, the number increased, from 19% to 22%, and for transgender respondents, the increase was even larger: 22% in 2012 and 36% in 2019 (EUFRA 2020). LGBTI people also face discrimination when looking for housing (11%), when using healthcare or social services (16%), in educational institutions (19%), at cafés, restaurants, bars or nightclubs (22%), at shops (13%), and when showing identification documents (5%) (EUFRA 2020). On the other hand, the perspective of the general public shows increasing tolerance, though there is still much ground to cover. The 2019 Eurobarometer survey on social acceptance of LGBTI people in the European Union - EU - found that 72% of Europeans say there is nothing wrong in a sexual relationship between two persons of the same sex, representing 5% increase from a Eurobarometer survey conducted in 2015 (European Commission - EC - 2019).

Despite the EU and Council of Europe - CoE - legal documents and policies promoting non-discrimination on the basis of sexual orientation or gender

¹ The Acronym 'LGBTQI+' refers to Lesbian, Gay, Bisexual, Transgender/Transexual, Questioning/Queer, Intersex. The '+' in the end implies the inclusion of other self-definitions that are not expressly mentioned. Throughout the report this acronym will be used when referring to the project and research analysis, while other ones will be used (e.g., 'LGBT') according to the quoted sources.

² Respondents of the FRA surveys were able to choose from the categories of lesbian, gay, bisexual, transgender, and intersex, therefore the acronym LGBTI is used in this report when referencing the survey.



identity, these pieces of law seem to have low or no effectiveness at local and national level. Society is not yet inclusive towards the LGBTQI+ community.

It has also to be pointed out that LGBTQI+ are perceived as a monolithic groups by "outsiders", while they are a very heterogeneous and with different stances, both in terms of specific needs within the group "LGBTQI+" (e.g., between lesbians and gays, transgender people etc.) and in terms of intersections between their sexual orientation or gender identity and other identity categories (e.g., migrant or minority background; disability, and age).

1.1 Existing needs

There is an urgent need to improve LGBTQI+'s formal and informal political participation, since their rights cannot be achieved without their active participation and voice. The project **VoiceIt - Strengthening LGBTQI+'s Voice in Politics** addresses the Rights, Equality and Citizenship - REC - Programme - AG-2018/Action Grants 2018: REC Work Programme's priority "Fighting against discrimination based on sexual orientation in society and promoting the rights of LGBTI people" of the European Commission. The project aims at contributing to this by engaging LGBTQI+ individuals to participate in the political discourse, state/government officials and representatives of political institutions in a constructive dialogue and by supporting them to liaise with each other for the integration of LGBTQI+'s concerns and needs in political decision-making processes.

1.2 Aim of the project

The VoiceIt project aims to help those who are motivated to participate in the political discourse be actively engaged, take part in political life and have a say. At the same time, VoiceIt aims to raise awareness and sensitise government officials, representatives of political institutions at different level of governance and the general public in Greece, Cyprus, and Italy about the enrichment deriving from the inclusive participation and the right of everyone to express their opinion with regards to local, national and European decision-making. The project concerns the need for a constructive dialogue



between LGBTQI+ individuals who wish to participate in the political discourse, government officials and representatives of political institutions. The ultimate objectives are the mutual understanding of the *status quo* of LGBTQI+ rights in the participating countries, a shared identification of potential solutions and initiatives for legal and political reform and the direct involvement of LGBTQI+ individuals in political decision making.

1.3 Aim of the WP2

The aim of the WP2 is to assess the needs and identification of misconceptions about LGBTQI+ Rights in Greece, Cyprus and Italy. It seeks to:

- pinpoint perceptions of LGBTQI+ rights held by individuals who identify as LGBTQI+, government officials, representatives of political institutions and civil society;
- pinpoint barriers hindering the rights of LGBTQI+ with minority ethnic and cultural backgrounds;
- pinpoint the needs for law and policy reform as expressed by the four relevant groups of respondents;
- pinpoint discrepancies in the perception of all the above among individuals who identify as LGBTQI+, government officials, representatives of political institutions and the general public.

This report represents the main result of WP2 in Italy, together with those written by partner organizations in Greece and Cyprus. The three national reports were compiled on the basis of a common table of contents, in order to allow a comparative perspective. The report covers a part containing a summary of the secondary data on the perceptions of LGBTQI+ people's rights in the national context of reference, the discriminatory episodes, the national legal and policy framework and, lastly, the recommendations for the desired reforms (sections 3 - 3.6).

Sections 4 - 4.7 the data of the empirical research carried out in Italy are presented.



2. Methodology

2.1 Desk research: aim and objectives

The desk and field research aims are to identify:

- a. the existent legal and policy framework for ensuring and enforcing LGBTQI+ rights;
- b. the occurrence of discriminatory incidents against individuals who identify as or are perceived as LGBTQI+ as reported in secondary data (e.g., national and European research findings);
- c. the occurrence of discriminatory incidents against individuals who identify as or are perceived as LGBTQI+ as reported by themselves, government officials, representatives of political institutions and the general public in the survey;
- d. the discrepancy between the perceptions of LGBTQI+ individuals, government officials, representatives of political institutions and the general public regarding the above and regarding the inclusion of LGBTQI+ individuals/organisation in political decision making.

More in detail, the desk research consists of a review and analysis of relevant legal and statistical data and resources (existing legislations, previous surveys and research etc.) in relation to four items:

1. the participation of LGBTQI+ in politics and the form that this has nationally;
2. discriminatory behaviours against LGBTQI+ individuals;
3. national and EU provisions concerning LGBTQI+ rights;
4. the existing legal framework that protects them.

2.2 Field research: aim and objectives



Quantitative and qualitative data were collected from LGBTQI+ individuals, government officials, representatives of political institutions and civil society.

The online survey, which was addressed to LGBTQI+ individuals, government officials, representatives of political institutions and civil society, aimed at collecting data on:

- ✓ the occurrence of discriminatory incidents against the LGBTQI+ community as reported by LGBTQI+ individuals, government officials, representatives of political institutions and the general public;
- ✓ the discrepancy between the perceptions of LGBTQI+ individuals, government officials, representatives of political institutions and the general public regarding the above and regarding the inclusion of LGBTQI+ individuals/organisation in political decision making.

These aim and objectives mirror in the structure of the questionnaire that included:

- a first part concerning the demographics; one group of questions delves into LGBTQI+ rights (including respondents' knowledge of LGBTQI+ rights and opinions about them);
- a set of questions relates to the occurrence of discriminatory incidents against the LGBTQI+ community in each partner country;
- another set of questions concerns the involvement of the LGBTQI+ community in politics;
- lastly, a group of questions looks at needs for policy reform.

2.3 Survey limitations and sampling procedures

Regarding limitations, the sample size of two of the target groups in Italy (i.e., government officials and political representatives) was small, which may limit the generalizability of the findings. Furthermore, in Italy it was



particularly difficult to reach the latter target group: one explanation might be the state of emergency due to covid-19 that politicians had to handle at different levels of governance in the very period in which the questionnaire was disseminated. However, among those who took part in the questionnaire there were some politicians who expressed appreciation for the inquiry, actively promoted its dissemination, participated in the launch event of the project or asked to be informed on the further steps of the project. Future studies should involve larger sub-samples of government officials and political representatives.

On another note, it is not possible to guarantee that the respondents among the general public do not also identify as LGBTQI+, as suggested by the data provided by general public who identify as intersex (see below at par. 4.1., concerning the demographic section of the data analysis). The definitions provided at the start of the survey were perhaps too long and complex for non-experts, and it might be inferred that they should be revised in further research using online surveys to investigate perceptions of LGBTQI+ related issues.

2.4 Data collection and data analysis

Data were collected through an online survey in order to reach at least 400 individuals per country, of whom at least 5% (20 participants) of the total sample should be government officials, at least 15% (60 participants) representatives of political institutions, at least 25% people who identify as LGBTQI+ (110 participants) and at least 25% members of the general public (220 participants).

The dissemination took place in the period 1 January 2020-30 April 2020 through the project's website, the organisations' websites, targeted mails, social media, contacts with NGOs and institutions, and personal contacts.

A total of 438 questionnaires were collected, divided as follows: 30 government officials; 31 representatives of political institutions; 142 people who identify as LGBTQI+ people; 235 members of the general public.

The quantitative data analysis was carried out through SPSS. The chi-square test was used to investigate the discrepancies between the four target groups





in the questions on a nominal scale ('Yes-No-I'm not sure-I don't want to answer'). For Likert-type questions on an agreement or frequency scale (0 = Strongly Disagree / Never, 1 = Disagree / Rarely, 2 = Undecided / Sometimes, 3 = Agree / Often, 4 = Strongly Agree / Always) the differences between the target groups were investigated by univariate one-way ANOVA. The level of statistical significance was set at $p < .05$.

Answers to questions addressed only to a target group (eg LGBTQI +) were analyzed using descriptive statistics (frequencies and percentages or mean and standard deviation).

2.5 Limitations of the survey

The main difficulty faced in Italy was to reach representatives of political institutions, many of whom were involved in managing the exceptional Covid-19 crisis. This might explain the low number in responses from this group.



3. State of the art

3.1 Existing legal framework that protects LGBTQI+ individuals

It is worth starting the legal overview by depicting the existing hard law (binding provisions) and soft law (non-binding provisions) at the level of the EU and CoE. In fact, many national provisions and policies concerning sexual orientation and gender identity derive from the European level, as described below in the part concerning the national legislation.

3.1.1 The European Union

At the EU level, several law provisions ban discrimination against LGBTQI+ people, even though the legal framework is scattered in different pieces of legislation and does not cover sexual orientation and gender identity in the same way. Therefore, one has to jointly read the "patchwork" of legislation in order to gain a full understanding of the overall picture.

As far as primary law is concerned, the legal basis of the principle of non-discrimination based on sexual orientation can be found in two fundamental Articles:

- I. Art. 21 of the EU Charter of Fundamental Rights - which has become a binding document since the entry into force of the so called "Lisbon Treaty" on 1 December 2009 - and explicitly bans discrimination based on sexual orientation;
- II. Art. 19 of the Treaty on the Functioning of the EU has to be mentioned since it allows, in accordance with a special legislative procedure, for "taking appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation".

As a consequence, the Directive 2000/78/EC was adopted that establishes a general framework for equal treatment in employment and occupation on, among others, sexual orientation. The Directive has been implemented in all EU Member States and provides minimum standards, thus "Member States may



introduce or maintain provisions which are more favourable to the protection of the principle of equal treatment than those laid down in this Directive. The implementation of this Directive shall under no circumstances constitute grounds for a reduction in the level of protection against discrimination already afforded by Member States in the fields covered by this Directive" (Art. 8; see also Recital 28 of the Preamble).

The scope of the protection is limited to the workplace (art. 3; see Annex I). This Directive introduces clear definitions of direct and indirect discrimination, harassment, instruction to discriminate and victimisation (Art. 2).

Various social actors (NGOs, research or other institutes and legal bodies) play an unprecedented role in supporting cases of discrimination based on sexual orientation, due to Art. 9(2), which asks Member States to grant: "that associations, organisations or other legal entities which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, either on behalf or in support of the complainant, with his or her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive". This provision has played a crucial role in Italy and other countries to enhance LGBTQI+ rights due to the involvement of several NGOs advocating for these rights (Guariso & Militello 2019; Viggiani 2017).

Moreover, the Directive encourages Member States to establish a social dialogue with non-governmental organisations, "which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination" on sexual orientation, "with a view to promoting the principle of equal treatment" (Art. 14).

Since it can be very hard to prove discrimination and harassment in legal proceedings, the Directive also states that in antidiscrimination law-related matters (though not in criminal procedures) a special rule on the burden of proof applies: "when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination [based on, inter alia, sexual orientation] it shall be for the respondent [employer,

colleagues etc.] to prove that there has been no breach of the principle of equal treatment" (Art. 10). This provision proves to be very helpful in supporting cases of discrimination before the courts.

Finally, yet importantly, Member States may introduce so defined positive actions, i.e. "specific measures to prevent or compensate for disadvantages" (Art. 7) linked to, among others, sexual orientation, "with a view to ensuring full equality in practice" (ibidem).

In order to extend the protection from discrimination based on, among others, sexual orientation beyond the workplace, in other fields of everyday life - namely, social protection, including social security and health care; social advantages; education; access to and supply of goods and services which are available to the public, including housing - the law-making process concerning the so called "Horizontal Directive" is now ongoing with a seemingly regular schedule, after a period of stand-by. They are based upon a Proposal for a Directive drafted by the European Commission in 2008. If adopted this Directive should also cover protection from discrimination based on multiple grounds (sexual orientation, religion or belief, age and disability), as well as discrimination by association, beyond employment and occupation.

As far as family law is concerned, this subject belongs to the Members States' competence, while the EU legislation concerns only cross-border cases.

As regards to gender identity there is no explicit provision in the EU Directives' binding parts, but Recital 3 of the Directive 2006/54/CE - on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation - states that "[t]he Court of Justice has held that the scope of the principle of equal treatment for men and women cannot be confined to the prohibition of discrimination based on the fact that a person is of one or other sex. In view of its purpose and the nature of the rights which it seeks to safeguard, it also applies to discrimination arising from the gender reassignment of a person". Although this provision has been discussed in literature, since it seems limited to gender reassignment only (Bell 2011, p. 618), it does provide a certain degree of protection beyond the dichotomy male/female- related rights only at workplace.

Another relevant binding law is the Directive 2018/1808/EU of 14 November 2018 amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) in view of changing market realities (see Annex I).

Among soft law documents (i.e., EU non-binding legislation), the European Commission presented the "2015 List of actions to advance LGBTI equality", supported by the CoE in 2016. The list of actions includes the concrete initiatives that the Commission committed to undertake between 2015 and 2019 in order to extend and make the EU legislation effective, in several areas among which non-discrimination, education, employment, health, free movement, asylum, hate speech, enlargement and foreign policy. Among the provisions are also the adoption of a Regulation facilitating the free circulation of public documents between EU countries, and the above mentioned revised Audiovisual Media Services Directive.

Two other documents need to be mentioned:

1. the Parliament Resolution on the EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity of 4 February 2014 (see Annex I).
2. The European Parliament Resolution on the future of the LGBTI List of Actions (2019-2024) of 2019, which notes that the Commission has not yet adopted comprehensive strategic frameworks on LGBTI rights (Recital D). Therefore it calls on the Commission, among others, "to ensure that LGBTI rights are given priority in its work programme for 2019-2024 and to strengthen cooperation among different Directorates-General in areas where LGBTI rights should be mainstreamed, such as in education and health, as set out in the LGBTI List of Actions" (par. 3), to adopt another strategic document to foster equality for LGBTI people (par. 4); "to continue work on the topics already included in the LGBTI List of Actions" (par. 6); "to involve Parliament and civil society organisations in the design of its future LGBTI List of Actions" (par. 7), "to take concrete measures to ensure freedom of movement for all families, including LGBTI families, in line with the recent *Coman* case at the CJEU" (par. 10); "to incorporate an intersectional perspective into its future work on LGBTI rights, to take into consideration

intersecting experiences of discrimination encountered by marginalised LGBTI people and to develop measures to address their specific needs, including by making funding available for specific support networks of marginalised LGBTI groups" (par. 12).

3.1.2 The Council of Europe

Besides the EU institutions, it is worth remembering the Convention on Preventing and Combating Violence against Women and Domestic Violence (or Istanbul Convention, 2011a), entered into force on 1st August 2014, which is the most comprehensive and legally binding response to violence against women and gender-based violence. This document has relevant implications for the protection from sexual violence of people based on sexual orientation and gender identity as well. In fact, Art. 4, par. 3 includes both characteristics as protected grounds. Therefore, States Parties have to implement all measures in the Convention without discrimination on them³.

To remember is also the Recommendation on sexual orientation or gender identity, adopted by the he Committee of Ministers on 31 March 2010 (See Annex I).

This is the first piece of law (although non-binding) at the CoE level, which deals with multiple discrimination concerning LGBT people. In fact, in the Appendix of the Recommendation, section XII, titled "Discrimination on multiple grounds", contains a provision "encouraging [Member States] to take measures to ensure that legal provisions in national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity; national human rights structures should have a broad mandate to enable them to tackle such issues" (par. 46)/.

The rights of LGBTQI+ people are part also of the competence of the European Commission against Racism and Intolerance - ECRI. This body started dealing with discrimination and intolerance towards LGBT persons in its fifth cycle of country monitoring (2012-2018). It

³ See the Explanatory Report in Annex I.

recommends all member states to develop legislation and policies to combat discrimination, hate speech and violence against persons on account of their sexual orientation or gender identity and to promote tolerance.

The Commissioner for human rights has also been very active in addressing the question of homophobia, hate speech and intolerance and issued a Paper on "Human Rights and Gender identity" in 2009 and co-operated with the EUFRA in carrying-out the survey "Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity. 2010 Update. Comparative legal analysis".

Last but not least, within the CoE, the Sexual Orientation and Gender Identity Unit - SOGI - was established, in order to promote and ensure respect for equal rights and dignity of all human beings, including LGBTI people.

3.1.3 National level

At the national Level, the Italian government *verbatim* implemented the EU Directive 2000/78/CE through the Legislative Decree no. 216 of 9 July 2003. It also implemented the EU Directive 2006/54/CE through the Legislative Decree no. 5 of 25 January 2010. This means that discrimination based on sexual orientation and on gender identity are forbidden at the workplace.

Furthermore, Art. 1468 of Legislative Decree no. 66 of 2010 containing the 'Military Code' prohibits all discrimination against LGB military personnel in access, recruitment, duty assignments and transfers and no campaigns have been launched to prevent discrimination in housing, especially for trans people whose situation is particularly severe.

The consolidated Text on audio-visual media and radio services contains the general principle on commercial communications that prohibits the promotion of discrimination on grounds of, among others, sexual orientation (Art. 36-bis of Legislative Decree no. 177 of 2005).

As far as the implementation of CoE's provisions are concerned, the Italian government ratified the Istanbul Convention in 2013.

Additionally, UNAR, the Italian Equality Body, which originally had competence only for discrimination based on race and ethnic origin, has been



coordinating the LGBT National Strategy since 2013, adopted by UNAR and the Department for Equal Opportunities on 23 April 2013, following the Committee of Ministers of the CoE on 31 March 2010. This proves that even non-binding documents may have an impact on the national level, although very much depends on whether and how they are effectively implemented at the local level.

The four strategic areas of this Strategy are:

- 1) education and training, in order to prevent and tackle homophobic and transphobic intolerance, violence and bullying;
- 2) discrimination in the work sector, by differentiating the specific needs of homosexual and lesbians respect to those of transgender and transexual people, also by mean of promoting diversity management and positive actions;
- 3) protection of LGBT people in prison and prevention and tackling hate crimes against LGBT people;
- 4) media and communication.

Among the initiatives undertaken by the Italian government is the website: <http://www.portalenazionalelgbt.it/temi/omofobia-e-transfobia/index.html>.

As far as family law is concerned, since 2016 same sex partners can enter a registered union, as a new "social formation", according to Artt. 2 and 3 of the Italian Constitution (Law 20 May 2016, n. 76). By entering a same sex civil union, "the parties acquire the same rights and assume the same duties; from the civil union derives the mutual obligation of moral and material assistance and cohabitation. It is on both sides, each in relation to its own substances and to its own ability, to work professionally and at home, to contribute to common needs" (Art. 11). The Law regulates many aspects of the relation, including inheritance rights and survivor's benefits. This law concerns transgender people as well, whereby it provides that "where the spouses have manifested the will not to dissolve the marriage or not cease its civil effects, following the correction to gender entry to birth certificate, automatic establishment ensues of the same-sex civil union" (Art. 27).





At the moment, there is no law *explicitly* stating that same sex can adopt in Italy, but the jurisprudence interpreted the existing law on adoption broadly (included the Cassation Court since 2016). This possibility is limited to a specific type of adoption (so called 'adoption in particular cases'), which differs from full adoption (allowed only to married couples) because the former does not end all relationships with the child's family of origin, while the latter does.

In fact, Art. 44 par. 1(d) of the Law no. 184/1983 states that a child who would not be adoptable in the traditional way and is not in a state of abandonment can also be adopted. Adopting parents become "social parents" (step parents). The partner of the biological parent may be living with her or him or be part of a registered union. The recognition of this kind of adoption extend also to same sex couples who married abroad. Two conditions are needed for this kind of adoption: the consent of the biological parent; the existence of an ongoing and stable relationship between the step parent and the child (e.g., they need to live together, they need to be in a relation of care).

There are no restrictions. The only restriction is in the event that the judge becomes aware of some reason that makes that adoption contrary to the interest of the child. Clearly, the fact that it is a homosexual couple cannot be considered an impediment.

Up to now, there is no legislation banning homobitrasphobia in Italy (Viggiani 2020).

On 19 September 2013 a draft bill was adopted (Disegno di Legge Scalfarotto) on the protection against homophobia and transphobia, by mean of criminal law. At the moment, two draft bills to tackle homotransphobia lay before the Italian Parliament: namely, the first one was presented by Mr. Alessandro Zan and others on 2 May 2018 and the second one by presented by Ms Mara Carfagna and others of 21 February 2020. In the moment of submitting this report (15 June 2020), the discussion on the first bill is scheduled in July 2020. Most importantly, auditions at the Italian Parliament on this bill will involve LGBTQI+ associations and other NGOs as main stakeholders. This means that a "bottom-up" perspective will hopefully be integrated in the law making process.



In the lack of a legislation banning hate speech on these grounds, it may be suggested to use strategically the notion "harassment" on the grounds covered by the Legislative Decree no. 216 of 9 July 2003 and the Legislative Decree no. 5 of 25 January 2010, in the same way as it has been strategically and successfully used by some NGOs to bring cases concerning hate speech on the basis of racial and ethnic origin, despite Italian criminal law already bans hate speech on these latter grounds (Bello 2019; Möschel 2019) One limit to extend the wide strategic use of the notion of 'harassment' on the basis of sexual orientation and gender identity might derive from the limitation of the objective scope (mostly limited to the workplace).

As far as transsexual and transgender people are concerned, the Sex Reassignment Act 1982 ('the 1982 Act') does not specifically regulate the status of transsexual or transgender persons, but rather establishes a set of requirements which an individual must satisfy in order to have their gender identity recognised in Italian law. More precisely, Art. 3 of this law provides that "when an adjustment of the sexual characters to be realized by medical-surgical treatment is necessary, the court authorizes it with judgment". However, judgement No. 15138/15, held by the Court of Cassation on 20 July 2015, established that the correction to gender entry to birth certificate can be independent from the medical-surgical intervention).

Some progresses seem to appear in the consideration of transgender/transsexual people's rights at national level: on 25 May 2020 the new platform - www.infotrans.it - was launched, entirely dedicated to this target group. It results from the collaboration between the Centro di Riferimento per la Medicina di Genere dell'Istituto Superiore di Sanità - ISS - and the aforesaid UNAR (UNAR 2020b). The aim of the project is to respond to the need to provide the population with independent, certified and updated information in this field and to encourage full social inclusion of transgender people. Additionally, the Minister for Equal Opportunity and Family (Elena Bonetti) has established the Permanent consultation table for the promotion of rights and the protection of LGBT people: the table setting meeting, convened by the Minister, took place on 26 May 2020 and involved most of the 65 associations that are part of the table (UNAR 2020a).

These initiatives are much needed, considering that "gender identity"-related issues have been the object of a very intense and conflictual debate over



the past years and culminated in the XIII Congress of the Family, held in March 2019 in Verona, which promoted homophobic positions and transphobic. The then Minister of the Interior Matteo Salvini and the then Minister for the family and disability, Lorenzo Fontana supported this initiative and the participation of the Italian government in it. In June 2018, Minister Fontana declared that rainbow families "do not exist" at least according to Italian law, even though the previously mentioned Law 20 May 2016, no. 76 allows for same-sex people to enter a registered partnership.

The gender identity-related issues concern also teaching and raising awareness on gender identity in schools, as mass-media and literature show, which led to a wide public debate and to cuts to gender identity-related programmes in schools by some local administrations (Bellé 2015; Ghighi 2019; Ottaviano & Mentasti 2017; Poggio & Selmi 2019).

3.2 Perception of LGBTQI+ rights

The recent FRA and Eurobarometer surveys provide key insights into perceptions of LGBTI rights, both by self-identifying LGBTI individuals and the general public.

The 2019 Eurobarometer shows that there has been slight progress in terms of tolerance and acceptance of LGBTI individuals if compared with the previous survey of 2015.

According to 2019 Eurobarometer, in Europe 72% of Europeans state that there is nothing "wrong" in a sexual relationship between two persons of the same sex, 69% affirming same-sex marriage should be allowed without limitations, 59% agreeing that transgender persons should be able to change their civil documents according to the gender identity they feel to belong to, and 46% agreeing that official documents should offer a third option besides male and female. The same source. In 2019, 35% of respondents in Italy "tend to agree" that there is nothing "wrong" in a sexual relationship between two persons, while 24% totally agree with it.

In Europe, 76% of respondents agree that gay, lesbian or bisexual people should have the same rights as heterosexual people, representing a 5% increase since 2015. However, this number varies widely across member states, with



support at 98% in Sweden (highest) and 31% in Slovakia (lowest). In Italy 40% of respondents in 2019 "tend to agree that LGBTI should have the same rights as heterosexual people" while 28% "totally agree" with this statement. Furthermore, 37% of respondents in Italy in 2019 "tend to agree" that school lessons and material should include information about diversity in terms of sexual orientation (being gay, lesbian, or bisexual people), while 19% "totally agree" with this statement.

In the EU scenario, in terms of specific rights, 69% believe same sex marriage should be legal throughout Europe in 2019, representing an 8% increase since 2015. Fifty-nine percent believe transgender people should be able to change their civil documents to match their gender identity and 46% believe official documents should offer a third gender option besides female and male (EC 2019). In 2019, 22% of respondents agree with this statement, while 36% tend to agree with it.

These improvements seem to be confirmed also by scholarly contributions (Albertazzi *et al.* 2009; D'Ippoliti & Schuster 2011; Fish & Karban 2015). An interesting small-scale empirical research shows that closeness between heterosexual and homosexual person is associated with less sexual prejudice towards homosexual people and greater support for issues of the LGBT community, especially with regard to the adoption for homosexual couples (Fasoli, Paladino & Sulpizio 2016; *cfr.* Goldberg 2015).

From the perspective of LGBTI identifying groups, 40% of respondents of the FRA survey said they felt that prejudice and intolerance against LGBTI people had decreased in the past 5 years, while 36% said it increased. For those who said it decreased, the most common reason cited was visibility and participation of LGBTI people in everyday social life (71%). For those who said it increased, the most common reason cited was negative stance and discourse by politicians and/or political parties (65%) (EUFRA 2020).

However, as far as Italy is concerned, the FRA survey reported the answer from one respondent from this country as follows: "[w]e live in a world where we have to hide and establish fake relationships with all the people we know. Better to die" (Italy, gay man, 27) (EUFRA 2020, p. 25).



Concerning whether respondents felt discriminated against as LGBTI in any area of life in the year before the survey, if they or anyone else reported the most recent incident to any organisation or institution, higher reporting rates are observed in Luxembourg and Italy (both 19%), as well as in Belgium (16%) (EUFRA, p. 35).

As far as LGBTQI+ rights at workplace are concerned, their improvement in Italy are also due to the tireless activity of NGOs in enhancing the application of antidiscrimination law.

Furthermore, *diversity management* can play a crucial role in advancing an inclusive approach towards LGBTQI+ at work, as it appears very clearly in the project coordinated by the Università Statale di Milano, with the support of the Italian Association for Human Resources "Parks - Liberi e Uguali" (Guerci, Iacci & Pulcher 2018). The publication resulting from the project (Guerci, Iacci & Pulcher 2018) contains a guide on the inclusion of LGBTQI+ workers and describes a number of good practices that can inspire other businesses.

3.3 Discriminatory behaviours against LGBTQI+ individuals

The Eurobarometer FRA surveys reveal a great deal about both the general public's perceptions of discrimination and LGBTI persons everyday lived experiences of discrimination. Fifty-three percent of Europeans say that discrimination based on sexual orientation is widespread, while less say that discrimination against transgendered persons (48%) and intersex persons (39%) is widespread. While a majority of people polled said they would feel comfortable having a gay, lesbian or bisexual person (72%), intersex person (66%) or transgender person (65%) as a colleague at work, fewer felt comfortable with seeing them in a love relationship with one of their children (gay, lesbian or bisexual person: 55%; intersex person: 44%; transgender person: 43%). In terms of seeing same sex couples display affection in public, only about half of respondents were comfortable with it (EC 2019).

Responses of LGBTI people show that they continue to face discrimination and violence in all areas of life. About half of respondents said they are almost



never or rarely open about being LGBTI, while 61% avoid holding hands in public with their partner. In terms of employment, 26% hide being LGBTI at work, and 21% felt discriminated against at work in the year before the survey. They also face discrimination in other areas of life, as 37% of respondents attested (EUFRA 2020).

As far as discrimination at workplace is concerned, the reporting rates are 26% in Belgium, 21% in the Netherlands, and 20% in Italy (EUFRA 2019, p. 35).

Experiences of violence and harassment are also quite prevalent. 33% of LGBTI people surveyed always or often avoid certain places or locations for fear of being assaulted, threatened or harassed because they are LGBTI. In the five years before the survey, 58% experienced harassment and 11% were physically or sexually assaulted because they were LGBTI. Of those who experienced acts of violence, only 21% reported them to any organization. Of those who did not, 25% said they did not do so for fear of homophobic and/or transphobic reactions by the police. Forty-three percent of respondents think that violence against LGBTI people has increased in their country, and 33% believe it has stayed the same. Overall, across the EU, 33% of LGBTI respondents believe their national government effectively combats prejudice and intolerance against LGBTI people (this proportion is lower for trans respondents -24%). However, there is significant variation across countries, with a high of 83% in Malta, and a low of 4% in Poland (EUFRA 2020).

Concerning the awareness of supporting NGOs and institutions (such as Equality bodies), only one out of three respondents have heard of the respective equality bodies in Slovakia, Slovenia, Italy and Luxembourg (ivi, p. 35).

Last but not least, the updated ILGA-Rainbow Europe charts provide with an insightful overview on the state of the art in 49 countries. According to ILGA (2019), the rankings are based "on how the laws and policies of each country impact on the lives of LGBTI people. The ranking records a country's legal standards for comparison with its European neighbours".

The range of indicators used by ILGA cover different categories of rights, spanning from equality, family issues and hate speech to legal gender recognition, freedom of expression and asylum rights. According to this source, Italy score amounts to 22.53% (23th position) among the EU member states, by taking into consideration all categories. Disaggregation of data



shows that, among EU countries, Italy places among those countries where there is "less respect of human rights, full equality" of LGBT people (25th place, score 9.04%) in the area of equality and non-discrimination, despite the intense work done by many NGOs to advocate LGBT rights at workplace.

In the area of family rights its position seems better (20th place, score 15%) but still among those countries where LGBT rights are less protected. These data are not surprising, given that same-sex couples cannot marry, nor can registered couples adopt children.

As far as the area of hate crime and hate speech is concerned Italy is at the 23rd place which is also not surprising since there is no binding law banning transhomophobia so far.

On the other side, Italy is at the 15th place with regard to legal gender recognition and bodily integrity of LGBT people (score 34.75%) and among the top countries in the area of civil society space (99.75%).

3.4 Obstacles faced by LGBTQI+ with minority ethnic and cultural background

Interestingly, the awareness has raised in Europe (both within the EU and, even before, within the CoE) that discrimination faced by LGBTI people intersect with other forms of discrimination. To be mentioned are the initiatives undertaken by the SOGI UNIT and the Youth Department of the CoE concerning, *inter alia*, discrimination faced by Roma LGBT people. The importance to take into account multiple discrimination was first underlined by previously mentioned Recommendation on sexual orientation or gender identity, adopted by the Committee of Ministers of the Council of Europe (CoE) on 31 March 2010.

According to FRA collected data, 40% of respondents who self-identify as members of an ethnic minority or have an immigrant background indicate ethnic origin or immigrant background as an additional ground for discrimination (besides being LGBTI). Further, 15% indicated their skin colour and 28% of respondents belonging to a religious minority indicated religion as another ground (EUFRA 2020).

One source of discrimination against LGBTI persons with a minority ethnic and cultural background can come from within their own minority communities. A Eurobarometer study on EU minorities and discrimination (EU-MIDIS II 2017) found that ethnic minorities feel uncomfortable with LGBT people as their neighbours at higher rates than other groups of immigrants (EUFRA 2017).

A Eurobarometer study on difficulties for LGBTI people in cross-border situations stressed the need for studies that can identify "specificities that might be experienced by same-sex couples of ethnic or religious minority origin who are in a cross-border situation" (Kogovšek 2019, p. 45).

Among the main issues, concerning intersectional discrimination faced by LGBTQI+ people in Italy regards the problem of their legal status.

Male refugees often claim this discrimination ground in their application but the Italian system is often very complex, slow and discrepancies can be noted at the local level in acknowledging this ground: in some cases the asylum applications based on this ground are perceived as "suspicious" or instrumental to obtain a legal status (Liboni 2018a; 2018b; 2018c and 2018d).

According to the above mentioned ILGA-Rainbow Europe charts, Italy is at the 9th place in the field of protecting LGBT human rights in the area of asylum (score 33.43%).

More generally, another barrier to the full exercise of rights is that third-country nationals holding a residence permit, regardless of their sexual orientation or gender identity, cannot vote or be elected in Italy. This circumstance limits their full participation in society and in the law and policy making process.

3.5 Participation of LGBTQI+ in politics and the form it has in each country

LGBTQI+ participation in politics is an important driving force in lowering discrimination, advancing rights, increasing awareness and representation, and building tolerance and acceptance. A 2013 report by the *University of North Carolina LGBTQ Representation and Rights Research Initiative* found that





a country that has "an LGBT member of parliament is 14 times more likely to have laws on marriage equality or same sex civil unions/partnerships" (Reynolds 2013a, p. 5)⁴. The landscape for participating in politics has improved considerably in recent years: up until 1999, only 48% of LGBT officials were out when they were elected, whereas between 1999 and 2013, 93% were out when elected. Between 1976 and 2012, in Europe there were 144 MPs, 21 cabinet members, and 20 senators/lords (Reynolds 2013a).

To date, there have been four openly gay or lesbian prime ministers in Europe: Elio Di Rupo of Belgium (2011-2014), Xavier Bettel of Luxemburg (2013-present), Leo Varadkar of Ireland (2017-present), and Ana Brnabić of Serbia (2017-present).

In terms of public opinion, 64% of respondents said they would feel comfortable seeing a gay, lesbian or bisexual person in the highest elected position. The numbers were lower when asked about a transgender person (53%) or an intersex person (54%). However, it is important to note that these numbers range widely between countries -89% of respondents from the Netherlands said they would be comfortable with a gay, lesbian or bisexual person in the highest office, while only 18% of Bulgarians felt the same (EC 2019).

Italy is placed in the middle among EU countries with this regard, with 23% of respondents being totally comfortable with having lesbians, gay or bisexual people in the highest political positions and 11% feeling totally uncomfortable, with an average rate of 6,6% (EC 2019, p. 136). The situation differs when it comes to transgender people, where 16% respondents would feel very uncomfortable and 14% totally comfortable, with an average rate of 5.5%.

Beyond data on elected officials, there remains a long way to go in measuring LGBTQI+ participation in politics. The United Nations Development Programme - UNDP, along with the World Bank, is developing a set of indicators to measure LGBTI inclusion, which is divided into 5 measures, one of which is political and civic participation. The indicators for this inclusion measure include "right to determine and get official recognition of identity; decriminalization of LGBTI people; number of 'out' LGBTI parliamentarians

⁴ This report is based on data from Reynolds (2013b).



and decision makers; ability of LGBTI people and organizations to exercise freedom of association, assembly, and expression" (Badgett & Sell 2018).

As far as Italy is concerned, there are a few openly LGBT political representatives both in the Italian Parliament (Nichi Vendola, Alessandro Zan, Vladimir Luxuria, Anna Paola Concia, just to provide some examples) as well as at local level: the first openly homosexual mayor is Rosario Crocetta (2003- 2009) who was also President of the Sicily Region (10 November 2012 to 18 November 2017), while in May 2019, attorney Gianmarco Negri was elected mayor in the town of Tromello, being the first Female to Male - FtoM - transexual mayor in Italy. The first openly bisexual Minister in Italy is Alfonso Pecoraro Scanio (2000-2001 and 2006-2008).

3.6 Need for policy reform

While no survey data was found identifying opinions of government officials or representatives of political institutions, it is possible in some cases to distinguish between LGBTQI+ identifying people and members of the general public. Results from the 2015 Special Eurobarometer on Discrimination in the EU reveal variations in support for LGBTQI+ rights between those who identify as "belonging to a minority with regards to sexual orientation" and those who do not (EC 2015). When asked whether gay and lesbian people should have the same rights as heterosexual people, 71% of all EU respondents agreed, though that number was higher (89%) for those who identified as belonging to a minority with regards to sexual orientation. On the question of legalizing same-sex marriage, 61% of EU respondents were in favour, while 82% of those belonging to a minority with regards to sexual orientation were in favour. Sixty-three percent of EU respondents believe that transgender or transsexual people should be able to change their civil documents to match their gender identity. This number is higher (79%) for respondents who identify as belonging to a minority with regards to sexual orientation.

As far as Italy is concerned, a wealth of literature supports the need to allow both marriages and adoption by mean of law, including stepchild adoption born in previous relationships.



In the same way, the need to adopt a thorough law banning trans homophobia is a core topic in gender-sensitive literature.

Media press, scholars, NGOs and activists raise awareness on the obstacles faced by trans people in Italy follow a Hormone Replacement Therapy, necessary for gender change. In fact, at the end of 2019 it was reported that some of the medicaments most commonly prescribed by doctors who follow people in the transition phase, in some periods may become impossible to be found. The latest emergency mainly concerned men, i.e. individuals who have undergone or completed a Female to Male - FtoM - sex change path. An additional problem concerns the costs of these medicaments, whose price has enormously increased: this situation generated a call on the Italian Minister by NGOs to protect effectively trans people's rights.



4. Online survey findings

4.1 Socio-demographic characteristics of the respondents

A total of 438 people took part in the survey. 87% identified themselves as cisgender (49.77% cisgender woman and 37.21% cisgender man), 1.59% as transgender (0.91% transgender woman and 0.68% transgender man), 5.25 % as genderqueer, 2.51% as "other", and 3.65% preferred not to answer. 4% defined themselves intersex. Half of the participants (55.25%) are aged between 26 and 45 years old and about 22.60% are in the 46-55 age group. Participants are mostly highly educated, with 68.26% holding a university or higher education degree.

Regarding the four target groups, 32.42% (n = 142) of the participants in the survey identify as LGBTQI +, 6.85% (n 30) belong to the group of government officials, 7.08% (n 31) to representatives of political institutions and more than half (53.65%) (n 235) belong to civil society. The groups differ significantly in the reported gender identity: the proportion of people who identify as cisgender women is higher in the group of government officials (66.67%) and in the civil society group (60 , 00%) than among the participants of the LGBTQI + community (33.10%) and among the representatives of political institutions (32.26%). The proportion of people who identify as cisgender men is lower in civil society (27.23%) than in the LGBTQI + community groups (51.41%) and representatives of political institutions (54.84%).

Within civil society, the proportion of people who self define as intersex (6.38%) is higher than in the LGBTQI + group (0.70%). This could concern intersex people who do not identify with the acronym 'LGBTQI +', probably because they do not like "labels", nor do they claim any membership in predefined categories. An alternative explanation for this result could be a lack of understanding of the definitions of the various terms provided at the beginning of the questionnaire (see Appendix III). As already illustrated (see section 2.3., concerning the limitations of the survey), the definitions provided at the beginning of the questionnaire were probably too many, long

and difficult to understand for people who are not familiar with non-binary gender-related terminology.

Participants from the LGBTQI + community (0.70%) preferred not to answer to the question on gender identity in significantly lower proportions than the representatives of political institutions (9.68%). About 27% of government officials and 22.58% of representatives of political institutions identify themselves as LGBTQI+.

There are more participants aged between 19 and 25 within the LGBTQI + community (17.61%) than in civil society (4.68%) and more people aged between 56 and 65 among government officials (23.33%) and LGBTQI + participants (3.52%). The four groups did not differ significantly in the level of education.

4.2 Knowledge and perceptions about LGBTQI+ rights of the four different target groups

4.2.1. Knowledge of the LGBTQI + people's rights by the four different target groups

As far as the knowledge of the current legislation relating to LGBTQI + people's rights is concerned, in general, no differences emerge between the target groups regarding the right of same-sex couples in Italy to be able to register a civil union and to be foster or adoptive parents of a minor. In all four groups, over 90% believe that same-sex couples can register a civil partnership in Italy, while 43% and 70% believe, respectively, that same-sex couples cannot currently be foster parents nor adopt a minor. These data highlight a partial knowledge of the legislation in force. As described in the section dedicated to national legislation, it is true that the Italian legal system allows same sex couples to establish a registered partnership but not to marry. The possibility of adopting a child "in special cases", on the other hand, also applies to same-sex couples.

As regards an explicit provision of law that recognizes adoption by same-sex couples, a long-term public debate is underway in Italy: on the one hand, part of the civil society is in favor; on the other hand, the traditional conception of the family hinders the enactment of this norm and a widespread

movement - mostly attributable to Catholic-oriented associations - is against it.

Both government officials (23.33%) and participants of the civil society (24.26%) believe that same-sex couples can currently marry in Italy in significantly higher proportions than LGBTQI+ people (4.23%). 94.37% of LGBTQI+ participants responded negatively to this question, a proportion that is significantly higher than that found among government officials (76.67%) and civil society (64, 11%). The "not sure" response option was selected significantly more by participants of the civil society (9.79%) than by LGBTQI+ participants (1.41%).

Regarding the possibility of gender rectification on their documents, civil society believes that this is legally possible in significantly lower proportions (57.02%) than LGBTQI+ participants (77.46%). Furthermore, civil society has selected the "not sure" option (30.64%) in significantly higher proportions than the LGBTQI+ participants (15.49%). The data show a lack of information by participants about the current rights of LGBTQI+ people in Italy (see section 3.4. on the current legislation), with the exception of the LGBTQI+ participants who, on the contrary, seem quite aware of their rights. Therefore, it is necessary to raise awareness of LGBTQI+ people's current rights among the different groups (civil society, government officials and representatives of political institutions).

LGBTQI+ participants believe that LGBTQI+ people are legally protected against discrimination in Italy (21.13%) to a significantly lower extent than all other target groups (48.39-50.21%) and replied "no" (65.49%) to a significantly higher extent than government officials (30.00%) and civil society (26.81%). These data could mean that information regarding the anti-discrimination law in the workplace (although limited to sexual orientation and gender identity/reassignment) is scarcely disseminated among LGBTQI+ people, making it necessary to raise awareness of the existence of this law, which inevitably affects its effectiveness and the effective protection of the rights of LGBTQI+ people. Alternatively, it is possible that the anti-discrimination law is known but that this protection is not perceived as actually applied in everyday life by employers or courts.

Lastly, it is possible that participants responded by referring to protection against discrimination in areas of their life other than employment and work (for example, access to services and housing).

LGBTQI+ participants also believe that LGBTQI+ people are legally protected against hate crimes (11.97%) in a significantly lower proportion than civil society (40.00%) and answered "no" (74, 65%) to a significantly higher extent than all other target groups (30.64-48.39%). Civil society indicated that it was "not sure" in answering this question (28.51%) in significantly higher proportion than LGBTQI+ participants (11.97%). This data indicates that in non-LGBTQI+ groups there is little information on the current protection gap in sanctioning transphobia in Italy, another area in which it is necessary to disseminate more information.

Representatives of political institutions (29.03%) and civil society (23.40%) believe that intersex people are protected by "normalizing" medical interventions in Italy in significantly higher proportions than LGBTQI + participants (7.75%), and they answered "no" (32.26% and 23.40%, respectively) to a significantly lower extent than the LGBTQI + participants (60.56%). Civil society said it was "not sure" in answering this question (51.06%) in a significantly higher proportion than LGBTQI + people (31.69%).

4.2.2. Perceptions of LGBTQI+ people's rights by the four different target groups

Moving from the data concerning the knowledge of the law relating to LGBTQI+ people's rights to those relating to the perceptions of the participants in the survey on these rights, all four target groups reported that they "agree" or "strongly agree" with the fact that LGBTQI+ people should be able to freely express their sexual orientation and/or gender identity and have equal treatment, and that firing/not hiring a person on the basis of their sexual orientation, gender identity and/or sexual characteristics should be prohibited.

LGBTQI + participants indicate that LGBTQI+ people should have the same rights as heterosexual cisgender people, in significantly, slightly higher proportion than civil society; that people should not be fired or not hired on the basis of their sexual orientation, gender identity and/or sexual characteristics, to a significantly, slightly greater extent than in civil



society; that same-sex marriage should be legal significantly, moderately more than representatives of political institutions and civil society.

Regarding the legitimacy of the foster care of minors by same-sex couples, LGBTQI+ participants agree with this possibility to a significantly, much greater extent than both government officials and representatives of political institutions and moderately more than civil society.

Similarly, LGBTQI + participants agree that adoption of minors by same-sex couples should be legal significantly more than both government officials and representatives of political and moderately more than civil society. However, among government officials, those who identified themselves as LGBTQI+ (n = 8 people) agree significantly, strongly more with same-sex couples adopting minors than non-LGBTQI+ counterparts (n = 21).

The same applies to foster care of minors by same-sex couples: LGBTQI+ government officials agree more strongly than non-LGBTQI+ government officials, although the difference is not statistically significant. Even the representatives of political institutions who have identified themselves as LGBTQI+ (n 7 individuals) agree both with the fostering of minors and with their adoption by same-sex couples much more than their colleagues who did not identify as LGBTQI+ (n = 22). However, these differences are also not statistically significant.

Once again, by contextualizing these data into in the ongoing debate on LGBTQI+ families' rights, they reflect the dual tendencies expressed by one part of civil society - that advocates equal rights through law in this area - and the other one strongly opposed to this possibility.

Among LGBTQI+ participants, the degree of agreement that LGBTQI+ people should be able to rectify gender on their legal documents and that LGBTQI+ people should be equally represented in political life (e.g., parties, institutions, organizations) is significantly, strongly higher than among representatives of political institutions and slightly to moderately higher than among civil society.



4.3 Perceptions on the occurrence of discriminatory incidents against the LGBTQI+ community, as expressed by the four target groups

There are no differences between the target groups in the perception that LGBTQI+ people are/are not generally accepted in Italy. 56% of the LGBTQI+ participants, 70% of the government officials, 54.84% of the representatives of political institutions and 64.68% of civil society responded that, in general, LGBTQI+ people are not accepted in Italy. With no differences between target groups, discriminatory incidents are perceived as occurring from "sometimes" to "often". Instead, incidents of people excluded from an event or activity, discriminated against in public spaces and victims of physical attacks because they are or are perceived as LGBTQI+, were generally perceived as occurring from "rarely" to "sometimes".

Four significant discrepancies emerge between the target groups.

- 1) Incidents in which people made negative comments about LGBTQI+ people in public places or online were perceived by LGBTQI+ participants as occurring significantly, slightly more often than in civil society.
- 2) LGBTQI+ people perceive the occurrence of incidents of derision because they are or are perceived as LGBTQI+ as significantly, slightly more frequent than civil society.
- 3) The perceived frequency of sexual harassment against LGBTQI+ people or perceived as such reported by government officials is significantly, moderately higher than that reported by LGBTQI+ people and significantly, strongly higher than that reported by representatives of political institutions.
- 4) Lastly, in all target groups, 80% or more participants reported hearing negative comments, expressed publicly, towards LGBTQI+ people. In particular, this was reported by LGBTQI+ participants (97.18%) in significantly greater proportions than both government officials (83.33%) and civil society (79.57%). The latter ones (11.49%) replied that they had never heard negative comments made publicly towards LGBTQI+ people in a significantly higher proportion than the LGBTQI+

participants (2.11%). Both government officials (10%) and civil society (7.23%) responded "I don't know" in significantly higher proportion than LGBTQI+ people.

Some answers to open-ended questions point out that, within small realities, a part of LGBTQI+ people "is not accepted or considered an integral part of the society": a difference emerge between large cities, where LGBTQI+ people seem to be more comfortable, and small towns. Furthermore, some participants point out that LGBTQI+ people are "more tolerated than accepted, even if the younger generations seem to be more open". One participant believes that nowadays "there is a general acceptance (in some cases more definable as tolerance) of the gay and lesbian community. Transsexuals seem to be less culturally accepted: the stigma about them is still ingrained, while queers and intersexuals are not even known".

4.4 Occurrence of discriminatory incidents, as indicated by members of the LGBTQI+ community with no minority ethnic or cultural backgrounds

Almost all of LGBTQI participants ($n = 136$, 95.77%) do not consider themselves LGBTQI+ persons with a minority ethnic and cultural background. Most of them report that from "rarely" to "sometimes" received negative comments because they behave in way perceived as gender non-conforming by third parties (63.24%) or third parties revealed that they were LGBTQI+ without authorization (68.38%).

The remaining discriminatory episodes were reported as occurring less frequently, i.e. "never" to "rarely". In fact, 77.94%, 72.79% and 84.56% of non-LGBTQI + participants reported that they had never been, respectively, physically assaulted, sexually harassed and organized physical attacks on the basis of their being or being perceived as LGBTQI+. More than half of the transgender participants (57.14%) reported that, "sometimes" or "often", some people used their "dead name" to address them.

4.5 Occurrence of discriminatory incidents, as indicated by members of the LGBTQI+ community with minority ethnic or cultural backgrounds

Six LGBTQI+ people (4.23%) reported that they considered themselves LGBTQI+ people with a minority ethnic and cultural background. In general, they reported a slightly higher frequency of discriminatory incidents than LGBTQI+ people without such a background. However, they reported the following discriminatory incidents at the same or lower frequency than non-minority LGBTQI+ participants: receiving negative comments for the perceived gender non-compliant behavior by third parties, mockery because of being perceived as LGBTQI+ (regardless of ethnic and/or cultural background), unequal treatment and discrimination in public places because of being perceived as LGBTQI+. No one in this LGBTQI+ subgroup reported experiencing sexual harassment because they were perceived as LGBTQI+.

The most frequently occurred discriminatory event, reported by these 6 participants is that of people who, having become aware of their belonging to the LGBTQI+ community, revealed this information to others without their permission, with 66.67% of participants who replied "sometimes" or "often". Most LGBTQI+ people belonging to ethnic or cultural minority reported that from "rarely" to "sometimes": they received negative comments because they behave differently from what expected by third parties (83.33%), based on their perceived gender; received negative comments about their person for being or being perceived as LGBTQI+ (66.67%) and because of their ethnic and/or cultural background (83.33%); received negative comments online for being or being perceived as LGBTQI+ (66.67%) and because of their ethnic and/or cultural background (66.67%); suffered unequal treatment because of being or being perceived as LGBTQI+ (83.33%) and because of their ethnic and/or cultural background (66.67%).

The remaining discriminatory episodes were reported as less frequent and occurred from "never" to "rarely". In particular, the majority or all of these participants reported never having been sexually harassed for being or being perceived as LGBTQI+ with an ethnic and/or cultural background (83.33%) nor organized physical attacks for being or being perceived as LGBTQI+ (83.33%) or LGBTQI+ with an ethnic and/or cultural background (100%).

4.6 Involvement of the LGBTQI+ people in politics as described by the four target groups

In general, all target groups disagree or strongly disagree on whether LGBTQI+ people are equally represented in Italian political life (e.g. parties, institutions, organizations). However, LGBTQI+ participants consider LGBTQI+ people to be equally represented in Italian political life significantly, strongly less than all other target groups.

In all target groups, participants believe that there are openly LGBTQI+ people in political parties (51.49-61.29%). However, the majority of government officials and civil society say that they do not know if there are overtly LGBTQI+ people in the political parties they voted for (40% of government officials and 42.55% of society civil) and not voted (53.33% of government officials and 48.94% of civil society) in the last elections. Otherwise, the majority of LGBTQI+ participants and representatives of political institutions agree that there are openly LGBTQI+ people in the voted political parties (39.44% of LGBTQI+ participants and 45.16% of the representatives of political institutions) and not voted (39.44% of LGBTQI+ participants and 35.48% of the representatives of political institutions) in the last elections.

Representatives of political institutions agree that there are openly LGBTQI+ people in political parties and specifically in the political party they voted for in the last election to a significantly, moderately to strongly greater extent than both LGBTQI+ participants and civil society. Representatives of political institutions also believe that there are openly LGBTQI+ people in political parties that they did not vote for in the last election significantly, moderately more than civil society.

In general, all target groups strongly disagree or disagree with the fact that there are enough openly LGBTQI+ people involved in Italian politics (51.91-78.17%) and that there are enough opportunities for LGBTQI+ people to engage in politics (47.23-69.72%). The perceptions of LGBTQI+ participants regarding the presence of openly LGBTQI+ people involved in politics and the opportunities for them to engage in this area are significantly, moderately lower than those of the representatives of political institutions and civil

society. This can be linked to the existence of a few examples (mentioned above) of politicians who are openly LGBTQI+ in Italy.

More than half of the LGBTQI+ participants ($n = 84$, 59.15%) believe that they cannot participate in political processes in Italy without running the risk of being discriminated against. Only 20% of them ($n = 29$) believe that they can participate in political processes without risk of discrimination, while 19.01% do not know ($n = 27$) and 1.41% prefer not to answer ($n = 2$).

The high percentage of LGBTQI+ participants who perceive the risk of being discriminated against if they engage in political life suggests the need to improve the awareness of participation and the possibility of "voice" of this target group. This perception inevitably affects their constitutional right to be voted and to be able to participate in political decisions on equal terms with other citizens.

56% of LGBTQI+ participants ($n = 80$) believe that their positions would not be taken into consideration as much as those of heterosexual cisgender citizens if they engaged in political processes in Italy. Only 19% ($n = 27$) believe that their positions would be taken into account exactly as those of heterosexual cisgender citizens, while 24.65% ($n = 35$) do not know.

Regarding the specific perceptions of government officials, this target group disagrees or strongly disagrees that LGBTQI+ people are represented in the Italian political scene, that there are enough openly LGBTQI+ people involved in politics in Italy and that there are sufficient opportunities for LGBTQI+ people to engage in the country's politics. Most government officials say they do not know if there are openly LGBTQI+ people in their political party (43.33%) or in other political parties (53.33%), while 36.67% of them agreed with both statements.

4.7 Needs for policy reform, as expressed by the four target groups

All four target groups believe that policy reform in public services, social protection and labor policy is needed in Italy. A political reform in the provision of health services is, on the other hand, the one perceived as least necessary by all four groups. This last figure does not seem to fully





portray the current situation: see the difficulties in accessing drugs by transgender people, as described in the section on national legislation. As mentioned in the same section, even with regard to the prohibition of discrimination in the workplace it is not clear to what extent it protects gender identity.

LGBTQI+ participants perceive the need for a policy reform in the area of civil rights and family rights, for a thorough anti-discrimination law, as well as for an education reform significantly, slightly to moderately more than civil society.



5. Conclusions and recommendations

People who identify as LGBTQI+ appear to be more aware of the rights of this group than other participants, especially if compared to civil society. This raises the need to disseminate information on the need to promote the rights of LGBTQI + people.

Attitudes towards the rights of LGBTQI+ people are generally positive across all target groups. However, attitudes towards same-sex couples fostering and adopting minors are more positive among LGBTQI+ participants than in all other groups. More positive attitudes in this area can also be observed among LGBTQI+ government officials and LGBTQI+ people from political institutions compared to their non-LGBTQI+ counterparts.










More than half of the participants of all groups believe that LGBTQI+ people are not generally accepted in Italy. Discriminatory incidents against LGBTQI+ people, such as negative comments about LGBTQI+ people made publicly, were reported by 80% or more of the participants in all four target groups. The perception of discriminatory incidents towards LGBTQI+ people is generally high, with an average frequency perceived between "sometimes" and "often". Among the LGBTQI+ participants, those with a minority ethnic and cultural background report a frequency of discriminatory episodes only slightly higher than LGBTQI+ respondents who do not consider themselves as such. The data relating to LGBTQI+ people with a minority ethnic and cultural background, however, cannot be considered representative of the whole scenario, due to the limited number of participants who declared to have these characteristics in the sample.

Furthermore, it was not possible to compare the subgroups based on gender identity in the study variables due to their low number. Therefore, more research is needed involving a larger number of participants. Regarding the perception of LGBTQI+ people's involvement in politics, all four target groups agreed that LGBTQI+ people are not equally represented in the Italian political life, but this perception is more pronounced among LGBTQI+ participants. The presence of openly LGBTQI+ people within political parties is perceived as greater by representatives of political institutions than other groups.




Furthermore, more than half of LGBTQI+ participants feel at risk of discrimination if participating in political life and believe they would not receive the same consideration as heterosexual cisgender citizens engaged in political processes.

The need for political reforms regarding the protection of civil and family rights, anti-discrimination law and education was highlighted by all target groups, but is especially relevant for LGBTQI+ participants.

5.1 Recommendations (as emerged by all target groups)

-  Legal reforms in civil and family rights protection, including the right to marry and to adoption;
-  More effectively implement the existing anti-discrimination law, both at workplace and in all spectrums of everyday life;
-  Legal reforms in the anti-discrimination law to fill in the gaps concerning equal treatment based on gender identity, both at workplace and in all spectrums of everyday life;
-  Adoption of a legislation against homo-bi-transphobia;
-  LGBTQI+ - related content should be included in school books and educational curriculum at all degrees of education, as especially expressed by LGBTQI+ respondents;
-  Access to affordable treatments, on a continuous basis, for people who undergo gender transitions;
-  Promotion of LGBTQI+ people's social participation, above all in small cities and towns;
-  Promotion of LGBTQI+ people's political participation in politics;
-  Promotion of LGBTQI+ people's voice in the decision-making process at all level of governance;



-  Awareness raising actions should be organised, in order to sensitise and inform the public and the LGBTQI+ community on their rights;
-  Special focus should be put on LGBTQI+ people with intersectional vulnerabilities, such as LGBTQI+ refugees and migrants;
-  Training and capacity building for LGBTQI+ people, especially for those who want to actively engage in political participation.



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7. Annexes

7.1 Annex I. Further information on relevant legislation, policy and jurisprudence

EUROPEAN UNION

I. EU Directive 2000/78/CE

Directive 2000/78/CE on Establishing a General Framework for Equal Treatment in Employment and Occupation. 27 November 2000

The scope of the protection of this Directive

The scope of the protection of this Directive **is limited to the workplace** and covers the following areas: "(a) conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion; (b) access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience; (c) employment and working conditions, including dismissals and pay; (d) membership of, and involvement in, an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations" (Art. 3). This Directive introduces clear definitions of direct and indirect discrimination, harassment, instruction to discriminate and victimisation (Art. 2).

The burden of proof

Since it can be very hard to prove discrimination and harassment in legal proceedings, the Directive also states that in antidiscrimination law-related matters (though not in criminal procedures) "when persons who consider themselves wronged because the principle of equal treatment has not been





applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination [based on, *inter alia*, sexual orientation] it shall be for the respondent [employer, colleagues etc.] to prove that there has been no breach of the principle of equal treatment" (Art. 10). This proves to be very helpful in supporting cases of discrimination before the courts.

Dialogue with non-governmental organisations

Member States shall encourage dialogue with appropriate non-governmental organisations which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination on any of the grounds referred to in Article 1 [*inter alia*, sexual orientation] with a view to promoting the principle of equal treatment (Art. 14).

II. Directive 2006/54/CE

Directive 2006/54/CE on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (recast)

Preamble

Whereas 3 - on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation - states that "[t]he Court of Justice has held that the scope of the principle of equal treatment for men and women cannot be confined to the prohibition of discrimination based on the fact that a person is of one or other sex. In view of its purpose and the nature of the rights which it seeks to safeguard, it also applies to discrimination arising from the gender reassignment of a person".

Dialogue with non-governmental organisations

Member States shall encourage dialogue with appropriate nongovernmental organisations which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination on grounds of sex with a view to promoting the principle of equal treatment (Article 22).



III. Directive 2010/13/EU

Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive)

Art. 9 provides that "Member States shall ensure that audiovisual commercial communications provided by media service providers under their jurisdiction comply with the following requirements: [...] c) audiovisual commercial communications shall not: (i) prejudice respect for human dignity; (ii) include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation; (iii) encourage behaviour prejudicial to health or safety; (iv) encourage behaviour grossly prejudicial to the protection of the environment".

IV. Parliament Resolution on the EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity of 4 February 2014.

This document calls on the Commission to adopt "a comprehensive strategy on LGBTI equality, since the EU currently lacks a comprehensive policy to protect the fundamental rights of LGBTI people" (par. 2) and drafts a Roadmaps in order to fill in this gap, which includes: A. Horizontal actions to implement the Roadmap; B. General provisions in the field of non-discrimination; C. Non-discrimination in employment; D. Non-discrimination in education; E. Non-discrimination in health; F. Non-discrimination in goods and services; G. Action specific to transgender and intersex persons; H. Citizenship, families and freedom of movement; I. Freedom of assembly and expression; J. Hate speech and hate crime; K. Asylum; L. Enlargement and external action.

Section J is particularly important because call upon the Commission to „monitor and provide assistance to the Member States with regard to issues specific to sexual orientation, gender identity and gender expression when implementing Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, in particular when crimes are committed with a bias or discriminatory motive which could be related to



the personal characteristics of the victims" (i). Furthermore, it urges the Commission to propose "a recast of the Council Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law including other forms of bias crime and incitement to hatred, including on grounds of sexual orientation and gender identity" (ii).

V. The European Council Conclusions on LGBTI equality of 16 June 2016.

This document invites Member States to work together with the Commission with regard to the above mentioned LGBTI List of Actions.

VI. Finland Presidency of the Council of the EU 2019

Given the role that NGOs and civil society have in promoting equality and non-discrimination, it is worth mentioning that probably the most effective actions undertaken by the Commission so far is the support to many LGBTI civil society organisations through the Rights, Equality and Citizenship Programme and the Erasmus+ Programme. This institution financially supports them in the promotion of LGBTQI+ people's rights. Among the NGOs that are benefitting from direct financial support are the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association - ILGA; the International Lesbian, Gay, Bisexual, Transgender, Queer Youth and Student Organisation - IGLYO - and Transgender Europe - TGEU.

VII. Relevant EU Jurisprudence

As far as the jurisprudence at the EU level is concerned, the Court of Justice of the EU - CJEU - shows different attitudes. The interpretation provided by this Court is very relevant, since it exerts an impact on nation courts' jurisprudence and, in doing so, on the implementation of the law itself.

On the one hand, there is a set of judgements acknowledging discrimination based on sexual orientation. One of the most relevant one is the *Asociația Accept v Consiliul Național pentru Combaterea Discriminării* of 2013, in which this Court acknowledges that the statement made by a potential employer not

to hire a homosexual player (the case concerns a football club) integrates discrimination even though it is not possible to immediately identify a discriminated person. In fact, this statement exerts the effect to exclude subjects on the basis of one characteristic of identity (namely, sexual orientation) by affecting the very possibility of potential candidates to present their application. In this way, the protection from discrimination operates at an earlier stage, i.e. before an identified discriminated person actually exists. This case is also very relevant because it was brought before the CJEU by *Asociația Accept*, an NGO advocating for LGBTQI+ rights and shows how civil society can play a role to enhance this target group's rights.

On the other hand, one of the last judgements of the CJEU on discrimination based on sexual orientation at workplace – case *David L. Parris v Trinity College Dublin and Others*– was disappointing and criticised by many scholars. The CJEU did not recognize either direct nor indirect discrimination (or intersectional discrimination) on either sexual orientation or age (nor on the intersection between these grounds). The Court found that the Irish national rule on occupational benefits requiring the condition that the civil partnership was entered into before the member of an occupational benefit scheme reached the age of 60 (in this case, Mr. Parris), in order to acknowledge the right of surviving civil partners of these members to receive a survivor's benefit, was not discriminatory, even though the national law did not allow this very member to enter into a civil partnership before reaching that age (Atrey 2018; Möschel, 2017; Schiek 2018).

In the area of free movement, the case *Relu Adrian Coman, Robert Clabourn Hamilton, Asociația Accept v Inspectoratul General pentru Imigrări, Ministerul Afacerilor Interne* is relevant, in which the CJEU states that "[i]n a situation in which a Union citizen has made use of his freedom of movement by moving to and taking up genuine residence [according to Directive 2004/38/EC] in a Member State other than that of which he is a national, and, whilst there, has created or strengthened a family life with a third-country national of the same sex to whom he is joined by a marriage lawfully concluded in the host Member State, Article 21(1) TFEU must be interpreted as precluding the competent authorities of the Member State of which the Union citizen is a national from refusing to grant that third-country national a right of residence in the territory of that Member State on the ground that the law of that Member State does not recognise marriage between persons of the same

sex" (par. 58.1). Art. 21(1) TFEU is to be interpreted as meaning that, in circumstances such as those of the main proceedings, a third-country national of the same sex as a Union citizen whose marriage to that citizen was concluded in a Member State in accordance with the law of that state has the right to reside in the territory of the Member State of which the Union citizen is a national for more than three months. That derived right of residence cannot be made subject to stricter conditions than those laid down in Art. 7 of Directive 2004/38 (par. 58.2).

EUCJ - Court of Justice of the European Union (2013). (Third Chamber). *Asociația Accept v Consiliul Național pentru Combaterea Discriminării*. Judgement of 25 April 2013, Case C-81/12, ECLI:EU:C:2013:275.

EUCJ - Court of Justice of the European Union, (2016). (First Chamber). *David L. Parris v Trinity College Dublin and Others*, Judgment of the Court (First Chamber) of 24 November 2016, C-443/15 - Parris.

COUCIL OF EUROPE

Convention on Preventing and Combating Violence against Women and Domestic Violence (or Istanbul Convention)

The Explanatory report to the Convention underlines that "[p]aragraph 3 prohibits discrimination in Parties' implementation of the Convention. The meaning of discrimination is identical to that given to it under Article 14 of the ECHR. [...] It is worth pointing out that the European Court of Human Rights has applied Article 14 to discrimination grounds not explicitly mentioned in that provision (see, for example, as concerns the ground of sexual orientation, the judgment of 21 December 1999 in *Salgueiro da Silva Mouta v. Portugal*)" (par. 52).

Most importantly, it states: "[i]n light of this case law, the drafters [of the Istanbul Convention] wished to add the following non-discrimination grounds which are of great relevance to the subject-matter of the Convention: gender, sexual orientation, gender identity, age, state of health, disability, marital status, and migrant or refugee status or other status, meaning that this is an open-ended list. Research into help-seeking behaviour



of victims of violence against women and domestic violence, but also into the provision of services in Europe shows that discrimination against certain groups of victims is still wide-spread. [...] [G]ay, lesbian and bisexual victims of domestic violence are often excluded from support services because of their sexual orientation. Certain groups of individuals may also experience discrimination on the basis of their gender identity, which in simple terms means that the gender they identify with is not in conformity with the sex assigned to them at birth. This includes categories of individuals such as transgender or transsexual persons, cross-dressers, transvestites and other groups of persons that do not correspond to what society has established as belonging to 'male' or 'female' categories. Furthermore, migrant and refugee women may also be excluded from support services because of their residence status. It is important to point out that women tend to experience multiple forms of discrimination as may be the case of women with disabilities or/and women of ethnic minorities, Roma, or women with HIV/AIDS infection, to name a few. This is no different when they become victims of gender-based violence" (Explanatory report, par. 53).

Coe - Council of Europe, (2011b). Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul, 11 May 2011.

Recommendation n. 5 on sexual orientation or gender identity, adopted by the Committee of Ministers on 31 March 2010, on which is based the Italian LGBT Strategy.

This non-binding document encompasses five key-recommendations for Member States:

1. examine existing legislative and other measures, keep them under review, and collect and analyse relevant data, in order to monitor and redress any direct or indirect discrimination on grounds of sexual orientation or gender identity;
2. ensure that legislative and other measures are adopted and effectively implemented to combat discrimination on grounds of sexual orientation or gender identity, to ensure respect for the



human rights of lesbian, gay, bisexual and transgender persons and to promote tolerance towards them;

3. ensure that victims of discrimination are aware of and have access to effective legal remedies before a national authority, and that measures to combat discrimination include, where appropriate, sanctions for infringements and the provision of adequate reparation for victims of discrimination;
4. be guided in their legislation, policies and practices by the principles and measures contained in the appendix to this recommendation;
5. ensure by appropriate means and action that this recommendation, including its appendix, is translated and disseminated as widely as possible.





7.2 Annex II. Glossary

LGBTQI+: A common abbreviation for the lesbian, gay, bisexual, transgender, queer and intersex community.

Lesbian: A woman who is emotionally, romantically and/or sexually attracted to other women.

Gay: a man who is emotionally, romantically and/or sexually attracted to other men. Gay is sometimes also used as a blanket term to cover lesbian women as well as gay men.

Bisexual: A person who is emotionally, romantically or sexually attracted to people of more than one gender identity though not necessarily simultaneously, in the same way or to the same degree.

Cisgender: a term referring to those people whose gender identity and gender expression match the sex they were assigned at birth and the social expectations related to their gender.

Intersex: a term that relates to a range of physical traits or variations that lie between stereotypical ideals of male and female. Intersex people are born with physical, hormonal or genetic features that are neither wholly female nor wholly male; or a combination of female and male; or neither female nor male. Many forms of intersex exist; it is a spectrum or umbrella term, rather than a single category.

Trans person/people/man/woman: is an inclusive umbrella term referring to people whose gender identity and/or a gender expression differs from the sex they were assigned at birth. It includes multiple gender identities, such as trans man, trans woman, non-binary, agender, genderqueer, genderfluid, etc.

Queer: refers to people who do not want to identify as gay, lesbian, bisexual or any other category. Queer theory is also an academic school that challenges heteronormative social norms concerning gender and sexuality, and claims that gender roles are social constructions. Traditionally the term "queer" was an abusive term and therefore for some still has negative connotations. Many LGBTI persons however have reclaimed the term as a symbol of pride.





Genderqueer: Genderqueer people typically reject notions of static categories of gender and embrace a fluidity of gender identity. People who identify as "genderqueer" may see themselves as being both male and female, neither male nor female or as falling completely outside these categories.

Definitions from ILGA Europe Glossary, Amnesty International Glossary and Human Rights Campaign and ETHOS Media reporting and reference guide on LGBT issues (adapted).





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