

## COVID-19 and specific impact on LGBTI people and what authorities should be doing to mitigate impact

COVID-19 is generating complex challenges and risks and while the virus does not discriminate, it is very clear that it hits marginalised communities in our societies disproportionately hard. In addition, social distancing and other prevention measures, as needed as they are, can have unwanted negative impacts on the lives of marginalised groups. This should be taken into account and mitigated as much as possible.

### Specific problems LGBTI people and the community might be facing COVID 19

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1. **Social distancing** may be particularly difficult for those who have been rejected by their families, are not out with their families and now forced to be with them the whole time and/or are facing mental health issues. The 2019 Eurobarometer indicated that only 55% of Europeans would be comfortable if their child was in a relationship with an LGB person, dropping to 44% for an intersex person and 43% for a trans person.<sup>1</sup> Furthermore, in a 2017 UK study, 25% of youth experiencing homelessness identified as LGBTIQ, compared with only about 7% of the population.<sup>2</sup> LGBTI youth are at high risk of familial rejection.<sup>3</sup> This results in increased mental health difficulties among young LGBTI people who are closeted, or who are out and forced to quarantine with often unaccepting or abusive family members. This may lead to an increase in domestic violence experienced by LGBTI people,<sup>4</sup> in many cases this abuse is emotional, in some cases it is physical.<sup>5</sup> Closeted LGBTI people will experience stress due to their inability to freely express themselves and their fear of being outed (including fear of physical and emotional consequences), which will have long-term consequences on their physical and mental health.<sup>6</sup>
2. **Rainbow families** often struggle to formalise their documents and relationships legally, which in the current situation when countries are increasingly closing their borders, can cause additional problems. Documents issued in one country might not be recognised in another including: marriage certificates, registered partnership certificates, birth certificates, and gender recognition certificates. This can lead to

<sup>1</sup> [https://ec.europa.eu/info/sites/info/files/ebs\\_493\\_data\\_fact\\_lgbti\\_eu\\_en-1.pdf](https://ec.europa.eu/info/sites/info/files/ebs_493_data_fact_lgbti_eu_en-1.pdf)

<sup>2</sup> [https://www.feantsa.org/download/fea-008-17-magazine\\_v33480239002912617830.pdf](https://www.feantsa.org/download/fea-008-17-magazine_v33480239002912617830.pdf)

<sup>3</sup> <https://www.consilium.europa.eu/media/39430/reading-list-idahot-lgbti-children-final-version.pdf>

<sup>4</sup> <https://www.gaytimes.co.uk/community/133849/lgbtq-helpline-sees-calls-double-as-people-trapped-with-abusive-families/>

<sup>5</sup> <https://equalityhub.org/wp-content/uploads/2018/12/Count-Me-in-Too-Domestic-Violence-and-Abuse-Report.pdf>

<sup>6</sup> Kelleher, Cathy (2009) "Minority stress and health: Implications for lesbian, gay, bisexual, transgender, and questioning (LGBTQ) young people" Accessible online at <https://www.tandfonline.com/doi/abs/10.1080/09515070903334995?journalCode=ccpq20>

LGBTI people being held up at borders and not allowed to return to live with their families during this time of social distancing and quarantine, leaving them stranded in another country. Regarding birth certificates, countries who do not offer, for example, joint motherhood, will not transcribe or register those documents established abroad. This can result in children not being able to join their parent(s) and being stranded in another country. All of these aspects can result in people being trapped at borders when they should be in a safe household for social distancing and quarantine during the coronavirus outbreak.

3. A greater than average rate **of LGBTI people are unemployed and in precarious jobs**, and live on very limited and unstable financial resources. An estimated 25-40% of young people experiencing homelessness are estimated to identify as LGBTI. The current crisis shows the extreme vulnerability of people in precarious job and housing situations, including questions on access to social protection and access to healthcare services.
4. LGBTI people have **significantly lower health outcomes** due to stigma and discrimination, biases held by healthcare providers, and lower socioeconomic status, often linked **with lower access to comprehensive health insurance**, and are therefore more vulnerable. Furthermore, past experience of discrimination, stigma, gatekeeping, misgendering, and non-consented procedures can deter LGBTI people from seeking medical care, leading to later entry into medical systems or no entry at all. Additionally, **medical quarantine and medical surveillance can be re-traumatising to intersex and trans people** who have been subjected to non-consented medical testing or procedures and monitoring based on their sex characteristics and/or gender identity and expression.
5. Intersex people, who often have histories of hypermedicalisation, complex medical histories, and non-consented procedures, often need to travel long distances to access specialised care with a trusted provider. Lockdowns and travel restrictions severely limit this access. Thus, concepts of which kinds of medical providers and procedures are deemed “vital” should include access to ongoing care for intersex people.
6. **Transition-related medical care**, which is life-saving care for trans people, may be deemed non-urgent and postponed or cancelled in the light of COVID 19. However, two specific components of transition-related medical care must not be considered non-urgent: continuation of ongoing hormonal therapy and surgical aftercare for previously-conducted surgeries. For these procedures, delays or cancellations of care can lead to infection, surgical scarring and re-injury sometimes requiring additional

surgical correction, chronic pain, hormone imbalances, osteoporosis, migraines, and de-transition, among others. Physical consequences are coupled with psychological consequences, such as depression, anxiety, heightened dysphoria, self-harm, suicidal ideation, and suicide attempts. Many intersex people, both those who identify as cis and as trans, need access to continuing care for hormones, and risk similar consequences when this care is suspended.

7. Policing of emergency measures can involve discrimination by the police as regards SOGIESC, in particular when making judgements about who lives in a household, disrespecting same-sex partnership and Rainbow Families, which is often worsened by intersecting factors such as race. Furthermore, many trans people are unable to access identity documents presenting their correct name, gender marker, or photo, and increased police identity and paperwork checks can expose them to increased harassment, discrimination, and violence in this context. Increased police interactions also have exaggerated impacts on migrants, asylum seekers, and refugees, as well as racial and ethnic minorities.
8. Millions of refugees, including LGBTI asylum seekers/refugees, are stuck in limbo or at borders. The health and hygiene circumstances of refugee camps and detention centres in Greece and elsewhere leave all people in them at very high risk of illness, and severely inadequate services based on population size only exacerbate these risks. Additionally, LGBTI individuals who needed to relocate to escape life-endangering environments and had made arrangements, now find borders suddenly closed, requiring them to return to unsafe living conditions with no possible route to safety.
9. Over the last year, we have seen a rise in divisive and hateful rhetoric in election campaigns and public discourse, with minorities being scapegoated. And this is translating into real hate in the streets, not only homophobic and transphobic hate, but on all grounds. The current crisis risks being used as yet another occasion by religious leaders and hostile politicians and governments to blame LGBTI people for COVID 19, further steering up hate against LGBTI people. Such vicious statements blaming a minority for a pandemic can cause a huge level of hate towards LGBTI people. Political and religious leaders have a uniquely influential role in ensuring a proper response to the current crisis. We expect that such leaders use their position of power and influence to promote measures that help societies to protect the most vulnerable, to distribute the resources effectively, and to sustain effective measures both by the authorities and on the level of individual behaviour.

## What authorities need to be doing

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- Ensure that all emergency measures adopted in the face of the pandemic as well as emergency support and compensation and socio-economic support measures leave no one behind, but take the particular vulnerability of the most marginalised in society into account, including specific vulnerabilities of parts of the LGBTI community.
- In support efforts, pay particular attention to support to those working in informal and insecure settings, including ensuring access to social protection and health care, as well as basic needs.
- Monitoring closely the impact on human rights of LGBTI people as a result of emergency measures, whether as a result of official derogations or internal national guidelines. Call out any abuse of these derogation measures and stand ready to fully re-establish the human rights framework coming out of the crisis. Monitor that no measures adopted in times of derogation to HR law will be implemented in a discriminatory manner against any minority, including the LGBTI community.
- In order to achieve prompt and full return to a situation of normalcy, States have a heightened obligation to ensure the protection of rights linked to physical integrity, especially for the LGBTI community which is more at risk in situations of crisis.
- The principle of legality and the rule of law must be guaranteed at all times, and effective domestic remedies must allow alleged LGBTI victims of discriminatory measures vindicate their rights before independent and impartial domestic courts.<sup>7</sup>
- Speak out and condemn any wrong information and hate being spread, blaming the LGBTI community or other minorities for the pandemic
- All specific initiatives in tackling the problem of a rise of domestic violence, should also take the increased risk of LGBTI people, and especially young people, being exposed to domestic violence into account. In the long run, expanding definitions of domestic violence to include violence of family members towards LGBTI people would help preventive measures being inclusive and help ensure that policies designed to tackle domestic violence also do not leave LGBTI people who are physically or emotionally abused by their family members when living with them behind.
- Focus on non-discrimination in the policing of emergency measures.
- Any quarantine legislation and controls should allow people to choose what is their chosen quarantine place, rather than basing it strictly on resident registration. This will allow people who suffer or are under threat of suffering from domestic violence to quarantine in a safe space.

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<sup>7</sup> For more information on the legal principles and States obligations: see document entitled “COVID19 - STATES OBLIGATIONS IN THE FIELD OF LGBTI HUMAN RIGHTS by ILGA-Europe.

- Continue and step up support for domestic violence services and psychological helplines.
- Have a wide understanding of the notion of “family” or “household”, by using the ECHR term of “de facto families” to encompass the various lived realities of rainbow families, even and especially in countries where there is a lack of legal recognition.
- In order to prevent all families from being separated at borders, states should allow for the cross-border recognition of marriage certificates, registered partnership certificates, birth certificates (including information about legal gender or the parentage of a child), and legal gender recognition certificates, as well as documents with non-binary gender markers issued in another country.
- Ensure equal and non-discriminatory access to testing, treatment, and care
- Ongoing hormone treatments and other vital care needs to be guaranteed also in times of emergency.
- For non-vital transition-related medical care, derogations of rights must be implemented in a non-discriminatory manner, such that trans people are not subjected to them unduly and comply with the human rights protections and principles set out in the International Health Regulations and the United Nations’ Siracusa Principles. This includes a clear time limitation on derogations. Governments should set out how they will support people facing serious problems delaying planned medical procedures, due to economic problems as well as due to lost medical and personal leave
- In the context of sex-segregated medical facilities, house people based on their gender identity, not on the sex marker on their identity documents. So long as roommates or ward placements are assigned on the basis of gender, and honour patient self-identification for these placements.
- Access to HIV-related medications must remain consistent and uninterrupted.
- Classify continuing hormonal treatment as **vital** and ensure that it remains uninterrupted, including, when necessary, through administration of injections in healthcare facilities, including via pharmacies and clinics. When it is not possible for a healthcare provider to administer injections, ensure that trans people have sufficient information and resources to self-inject.
- Proactively ensure full respect of human rights of all when returning to a state of normalcy, including by taking specific protective measures concerning vulnerable populations like the LGBTI community.

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