Equality for All

On 2 July 2008, the European Commission proposed a directive that would ban discrimination on the grounds of age, disability, religion or belief and sexual orientation in all areas of EU competence. Currently, discrimination on these grounds is only prohibited in the field of employment. On the other hand, discrimination on the ground of race and gender is prohibited in many other areas, like social protection, education and access to goods and services.

Find out what this proposed Directive is about, why ILGA-Europe fully supports the adoption, and what this Directive has to do with you.

Campaign, Inclusion and Equality, Anti-discrimination, European Union, Sexual Orientation

The proposed Directive, if adopted, will extend the protection from discrimination on the grounds of religion or belief, disability, age, or sexual orientation to the areas of social protection, education and access to goods and services. This Directive would eliminate the hierarchy of rights that currently exists in the EU by giving the listed grounds the same protections guaranteed under the Race Directive.

Please read below for more information, including ILGA-Europe's stance on the Directive and what you can do to

help its passage.

What is the current legal situation in the EU?

In this section you can find information of the current legal situation and read examples on how this can affect the daily life of LGBT people living in the European Union.

At the moment, EU law protects people against discrimination based on sexual orientation – as well as age, disability, religion and belief – in the area of employment (Employment Framework Directive 2000/78). Unfortunately, EU law does not at present contain an explicit prohibition of discrimination on the grounds of a person's gender identity and gender expression. Indeed, the EU treaties only entitle the EU to take action to combat "discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation" only, without mentioning trans issues. Neither does a prohibition on discrimination against trans people appear in the EU Charter of Fundamental Rights.

In practice, this means that you are legally protected across the EU against, for example:

- Being refused a job or fired because of your sexual orientation
- Being harassed by colleagues at work because you are gay or lesbian

However, European legislation does not protect against discrimination based on sexual orientation, age, disability, religion and belief, in other areas of life such access to goods and services (including housing), social protection and social advantages, education and health care.

In practice, this means that not everyone in the EU is protected against:

- Homophobic bullying in school
- Refusal of medical services and treatment to openly LGBT people
- Refusal to give a double room in a hotel to a same-sex couple
- Refused access to social security schemes, such as survivors' pensions and financial assistance to carers

The grounds of race and gender enjoy stronger protection in the European Union:

- The 2000/43 Race Equality Directive protects against discrimination based on race and ethnic origin in all areas of life
- Sex discrimination is prohibited by EU law in employment and in access to goods and services (Equal Treatment Directives 2006/54 and 2004/113). Trans people are partly covered by these instruments. More information on how trans people are covered by existing EU law can be found in the following Report ordered by the European Commission. and in the following guide published by our friends from Transgender Europe.

It is important to note that the legal protection against discrimination based on the different grounds varies from one EU country to another. All Member States have legal rules going beyond what is already required by European law, but:

- discrimination on some grounds (age, disability and sexual orientation) is less covered by national laws than other grounds
- national laws may prohibit discrimination for all the grounds but only in some areas of life
- and there are no minimum applicable standards of non-discrimination across the EU

Why ILGA-Europe supports the proposed Anti-Discrimination Directive

The proposed anti-discrimination Directive currently identifies four different grounds that will be protected from discrimination in the areas of social protection, education, and access to goods and services. The protected grounds are religion or belief, disability, age, and sexual orientation. ILGA-Europe supports this multi-ground approach for several reasons.

These grounds are the same grounds protected in the Framework Directive for equal treatment in employment and occupation (2000/78/EC). By passing a Directive that extends protection from discrimination based on these grounds in the areas of life mentioned above, the European Union brings its anti-discrimination legislation in harmony. Currently, the Race Directive protects European citizens from discrimination in all the areas of life.

Instead of having a hierarchy of rights among the different grounds that are protected in the EU, ILGA-Europe advocates for a holistic and inclusive anti-discrimination law that protects all vulnerable groups from bias in all areas of life.

ILGA-Europe supports the proposed Directive for the following reasons:

- **To protect against forms of discrimination that take place on a daily basis**

A growing body of academic and community-based research shows that lesbian, gay and bisexual people across the EU face discrimination in access to social protection, health care and services, education, housing, goods and services, among other areas.

Legislation is an important and indispensable pre-condition to address sexual orientation discrimination, and other grounds of discrimination. Non-legislative measures are rarely effective unless they are underpinned with binding and enforceable rights, especially when dealing with forms of discrimination which are not yet “socially accepted” as legitimate.

- **To end a de facto hierarchy of rights at European level**

The grounds of race and gender enjoy stronger protection in EU law than the grounds of sexual orientation, age, disability, religion and belief. This “hierarchy” is contrary to international obligations under human rights instruments such as the International Covenant on Civil and Political Rights (article 26) and the European Convention on Human Rights (article 14)

This new EU directive would ensure that five grounds of discrimination are treated equally in European law. However, beyond this directive, there will be a need to fill the gap in protection against discrimination on the ground of gender which is not prohibited in education.

- **To harmonise protection against discrimination throughout the EU**

A single comprehensive law covering age, disability, religion and belief, and sexual orientation would provide a coherent, transparent and understandable body of law with regard to non-discrimination.

It would provide legal clarity for businesses, as well as citizens. Everyone would know the minimum applicable standards of non-discrimination wherever they are.

A new law would also allow for freedom of movement of workers and employers where unequal protection may act as a disincentive to move to certain Member States.

What can you do to contribute to this campaign?

The proposed directive adopted by the European Commission on 2 July 2008 was sent to the European Council which needs to approve it if the directive is to become EU legislation. This means that the proposed text is now up for negotiations by national governments.

This process is likely to be a challenging on since a directive related to non-discrimination (i.e. based on Article 19 of the EU Treaty) needs to be adopted **unanimously**, i.e. by ALL Member States.

Therefore, your help is **absolutely necessary** to ensure that ALL Member States support a new EU directive.

PLEASE keep the ILGA-Europe office informed about your activities and developments in your country in relation to the directive. It will help us to be coordinated in our campaign.

Lobby your government

What can you do?

We need everyone to call on their decision-makers and governments to support the horizontal directive.

This can be done by **writing to your head of government** or head of state (President, Prime Minister, or Chancellor) and **to the minister responsible for social affairs** and equal opportunities in your country to

- Call on your government to support a proposal for a new Directive that covers discrimination based on sexual orientation, along with the grounds of age, disability, religion and belief, in areas outside employment.
- Remind your government that there is extensive evidence of discrimination based on sexual orientation in areas outside employment
- Remind your government that it has an obligation under international human rights law to ensure enjoyment of all human rights without discrimination

You can also request **contact the ministry responsible for social affairs and equal opportunities** and request meetings where appropriate to find out about your government's position and to establish a dialogue with your ministry on the content of the directive. It is important to know about Member States' concerns with the text and to be ready to discuss them if we want to reach an agreement.

Think about coalitions with your colleagues from NGOs working on other grounds of discrimination, from human rights organisations, trades unions and equality bodies.

Remember that EU Member States have made commitments which they should fulfil. For more information about States' human rights obligations and other commitments, please refer to the following document: The Briefing Note

Relevant documents for download

- ILGA-Europe's position on the proposed Directive (October 2008)
- ILGA-Europe's Written Response to the European Commission Consultation on New Anti-Discrimination Measures
- Discrimination based on sexual orientation – Additional evidence (Dec. 2007)
- Case for a Horizontal Anti-Discrimination Directive (ILGA-Europe/ENAR)