

EU LGBTIQ Equality Strategy – Year 2 evaluation

The first ever EU LGBTIQ Equality Strategy, adopted in November 2020, is a major step in the EU's overall commitment and detailed efforts to ensure the fundamental rights of LGBTIQ people and fight discrimination. Many people welcomed the strategy, including ILGA-Europe, who noted in their [press release](#) that it marks a 'qualitative shift from the European Commission towards playing its full role to defend and protect LGBTI rights in times of real backlash'.

Half way through, the evaluation of LGBTI organisations is positive, but also pointing clearly to where more is needed to ensure the implementation of the strategy in all areas of EU competence and to fully live up to the commitments the EC proudly adopted with the strategy.

With this briefing, ILGA-Europe wants to highlight five key aspects of our evaluation of the first two years of implementation, and set out recommendations to ensure strong implementation of the full strategy by 2024. We have collected feedback from LGBTI organisations and activists from across Europe and shared the assessment in the meeting with DG JUST on November 30th, 2022. These notes are a written follow-up of the meeting.

1. Ensuring full implementation and ongoing evaluation throughout the European Commission's structures and mechanisms

The EU LGBTIQ Equality Strategy gives an **important political signal and sets out the clear commitment of the whole European Commission**, across all Directorate-Generals, to include LGBTI rights in their work. The EU LGBTIQ Equality Strategy clearly supports the mainstreaming of LGBTI rights in the work of the European Commission, as well as the inclusion of LGBTI rights into other strategies, like for example the Children's Rights strategy. However, so far implementation is very much driven by DG JUST and the initiatives and engagement of other DGs is lagging behind. Clear activities in other DG's competences are set out in the strategy, and full implementation needs to be ensured. ILGA-Europe, as well as other organisations, have tried to discuss the actions with different DGs, but establishing contact and cooperation has been difficult. **A real push is needed to ensure other DGs pick up activities under the strategy to the same extent.**

- To better ensure coordinated efforts for the full implementation of the strategy, it should be made public who are the Equality coordinators in each DG and thus who are the contact points for implementation.
- It would also be very useful to not only have the annual evaluation meeting between NGOs and DG JUST, but to invite other DGs to those meetings, to discuss implementation and progress.
- The evaluation should follow a clear assessment of objectives rather than reporting on actions, focusing on the progress made towards full equality for LGBTI people. The annual assessment should foresee a moment of reassessment of the set objectives

and strategies, and leave room for adjustment of foreseen activities throughout the remaining implementation period.

2. Structure and ongoing cooperation with European LGBTI networks to ensure strong implementation

In order to organise good practice exchanges and cooperation between Member States in the areas named in the strategy (including legal gender recognition based on self-determination, banning conversion therapies and banning non-medically necessary interventions on intersex children), the EC has set up an LGBTI subgroup to the High-level group on non-discrimination. This is an important step in coordinating the work with Member States. However, currently the subgroup, unlike other fora the EC has been setting up for the implementation of key areas of work with Member States, is not structurally involving NGOs, but on invitation only.

- To ensure good cooperation, European LGBTI networks should be involved in an ongoing and structured manner in the LGBTI subgroup, as well as the list of participants and the agendas of the subgroup should be made available.

Good practice examples on ensuring cooperation between EU institutions, Member States and civil society are the High-level group on racism, xenophobia and other forms of discrimination, as well as the EU Homelessness Platform and the EU Disability Platform.

3. Ensure the protection of trans, intersex and non-binary people through EU laws and policies

The strategy is setting out clear commitments of being fully inclusive of all LGBTI people and sets out the commitment to work towards the full protecting of trans, intersex and non-binary people. In implementing the different activities of the strategy, **the EC needs to live up to this political ambition and needs to challenge a very narrow understanding of the legal protection in the EU Treaty solely covering sexual orientation.** Recent EC proposals under the strategy however, such as the EC proposal for Strengthening the standards of Equality Bodies¹, are falling behind this commitment and only include sexual orientation.

The Treaty reflects the state of the art of the time in which it was adopted, since then international human rights law and standards have clearly evolved to ensure the protection of trans, intersex and non-binary people. There is also EU case law that clearly aims for the inclusion of trans and non-binary people in the implementation of EU law.

- The EU needs to live up to these standards and not limit itself to the protection of sexual orientation only. While recognising the limitations of the EU treaty, the EC should, in line with EU case law and international human rights standards, encourage

¹ https://commission.europa.eu/system/files/2022-12/1_1_201224_prop_council_dir_eq_bo_en.pdf

member states to not exclude large parts of the LGBTI community from their anti-discrimination protection, as well as any protection against hate and violence, but be fully inclusive of gender identity, gender expression and sex characteristics in all upcoming initiatives, including work on gender-based violence, to counter hate, as well as ensuring freedom of movement.

4. Resourcing the implementation of the strategy

While the responsibility for the implementation of the strategy is define as a shared responsibility throughout the European Commission and thus lying with all Commissioners and Directorate-Generals, it is in the current context evident, that a strong coordination role is still resting with the anti-discrimination unit in DG JUST. Considering that a leading role of DG JUST is important in ensuring implementation also by other DGs, the fact that there is no sustainable long-term dedicated position on LGBTI rights in the DG is very worrying. The high turn over and understaffing is clearly having an impact on the overall implementation of the strategy. In the long-run, a dedicated LGBTI rights coordinator needs to be established to ensure leadership and sufficient human resource, ensuring success full implementation.

5. How EU funding is supporting LGBTIQ civil society in the EU

Regranting

ILGA-Europe has for many years advocated for EU funding being more accessible to local and national LGBTI organisations, and the opening of the possibility to regrant under EC grants, is a major step in this direction, which we welcome. Implementation of the regranting mechanism should be evaluated between the EC and implementing organisations towards the end of 2023 to identify lessons learnt and ensure necessary adjustments to ensure accessibility of the funding.

Funding in the Western Balkans

In this context, we want to draw specific attention to the region of the Western Balkans which is experiencing a serious backlash on democracy and human rights at the moment, with real impact for vulnerable groups including the LGBTI community. The backlash was exemplified this year through the attempts of the Serbian government to ban Europride, but LGBTI organisations from all countries in the region report a sever rise in anti-LGBTI positions from parties and governments, and a rise in LGBTI-phobic hate. In this critical context, the EC needs to ensure that funding continues to reach civil society organisations working on the defence of democracy and human rights, and especially for the rights of vulnerable groups, including LGBTI people.

The current EC funding for the region is reaching NGOs, but often not the most marginalised, including LGBTI organisations. To ensure EC funding is also reaching the most marginalised CSOs, the option to extend the possibility to issue subgrants (Financial Support to Third Parties under the Operating Grants) to CSOs in enlargement countries should be explored.

High co-funding rates and too low eligible unit rates

Regarding the Operational Grant ILGA-Europe and others are receiving under CERV, the fact that the co-funding rate is still up to 20% is absorbing a lot of unrestricted and core funding, that organisations such as ILGA-Europe urgently need in the current context to react to support LGBTI communities in crisis, such as the ongoing war in Ukraine, and which in other circumstances would be used to provide more flexible and easier to manage subgrants to members. The co-funding requirement is therefore directly limiting ILGA-Europe's ability to provide needed flexible financing to LGBTI organisations. Currently, the amount of co-funding ILGA-Europe are contributing to the EC grant is higher than the amount in the budget available for re-granting under the Operational Grant. Co-funding has been reduced to 10% under other funding streams in the European Commission and the same reduction should be considered under CERV.

Furthermore, the rates for unit costs established by Decision C(2021)35 are already outdated, and between 10-25% too low to cover actual costs under the operational grants.

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