

## **European Parliament election 2024 Key points for election campaigns and the next legislature**

### **A Renewed LGBTIQ Strategy**

The 2020-2025 LGBTIQ Equality Strategy was a landmark step in anchoring the work on LGBTI rights firmly in the European Commission, setting out clear objectives and initiatives, as well as mainstreaming LGBTIQ rights in all areas of EU policy. The 2024 elections need to include a clear commitment for a renewal of the EU LGBTIQ Equality Strategy. As set out in our [review of the strategy](#), a clear commitment and even strong institutional structures in the EC are needed to ensure the strategy can fully realise its political ambition.

The strategy set out objectives and key initiatives in a variety of policy areas and thus committed the whole EC structure. However, implementation so far has shown, that while a lot of progress was made in the areas that fall under the remit of DG JUST, initiative and engagement of other DGs are lagging behind. A real push is needed to ensure other DGs pursue meaningful activities under the strategy to the same extent.

The strategy committed to full protection of trans, intersex and non-binary people. The EU needs to follow this commitment with action by challenging the narrow interpretation of the legal protection in the EU Treaty solely covering sexual orientation and include gender identity and sex characteristics. Recent EC proposals under the strategy have fallen behind this commitment and only include sexual orientation. There is EU case law that clearly points to the inclusion of trans people in the implementation of EU law (see: P v S and Cornwall County Council, Case C-13/94) and this interpretation of including gender identity needs to be strengthened. Furthermore, a clarification is still needed to explicitly ensure that sex characteristics are covered under the ground of sex. The EU institutions need to use the remit of EU law and case law to ensure trans, intersex and non-binary people are also protected under the EU legal framework and cannot limit itself to a very narrow interpretation of EU law and the protection of sexual orientation only.

The EU, in its development of a package of specific strategies seeking to ensure itself to be a *Union of Equality*, has also committed to these strategies working with intersectionality and multiple marginalisation as cross-cutting issues. To ensure that those experiencing multiple marginalisation are equally included and protected, future strategies should include specific

mention and measures that function intersectionally, including for example the inclusion of rights of LGBTI people in other strategies, such as the Strategy on the Rights of the Child and the Strategy on the Rights of Persons with Disabilities, and vice versa.

### **Closing Legislative Gaps in the areas of Non-Discrimination and Hate Crime**

2022 was the [most violent year for LGBTI people in Europe in the past decade](#), according to ILGA-Europe's Annual Review. Increasingly prevalent hate speech from politicians, religious leaders, right-wing organisations and media pundits has normalised anti-LGBTI sentiments, and directly translates into increased discrimination and attacks on LGBTI people.

Following the [European Parliament's resolution](#) condemning hatred and violence on the basis of sexual orientation, gender identity or expression and sex characteristics in the wake of the October 2022 shooting in Bratislava, action must be taken to ensure the safety of LGBTI people. Current legislation for protecting LGBTI people still contains numerous holes: anti-discrimination protections only exist at the EU level in the area of employment, and only on grounds of sexual orientation and, to a certain extent, gender identity. LGBTI people are not protected under the [2008 Framework Decision](#) and gaps remain in [national anti-discrimination and anti-hate crime and hate speech legislations in several Member States](#).

The European Parliament must take political leadership in setting anti-LGBTI hate speech and hate crime as a priority. MEPs should work with the European Commission and Member States to ensure that legislation is adopted on both national and EU levels to close these gaps, so that no one is left vulnerable and unsupported.

### **Countering violations of LGBTI people's human rights using EU leverage**

LGBTI rights are increasingly being used to polarise society, often as part of a broader movement seeking to undermine democracy, the rule of law and human rights. Members of the European Parliament have a useful role to play in shining a light on these diversionary and reactionary tactics and pushing for solidarity in the face of movements which seek to divide and conquer. It is important that the EU recognises that protecting LGBTI rights is a vital part of its role as a defender of broader democratic rights and freedoms. All available instruments need to be used in carrying out this role, for example the rule of law framework, tying EU funding to fundamental rights compliance, and infringement procedures. In the most recent legislature we saw the EU standing up in defence of LGBTI people by launching an infringement procedure against Hungary's violation of their fundamental rights and EU law. This step was supported by efforts of Member States and MEPs, with the European Parliament supporting the case in an historic move, at the CJEU. The next Parliament needs to continue to support this case and continue to stand



up against the violation of the rights of LGBTI people using all the available legal mechanisms. The same is true for the work that the European Parliament has been doing in ensuring that EU funds are not distributed to towns and cities which are discriminating against LGBTI people in their policy, such as the so-called “LGBT free zones” (anti-LGBT resolutions and Family Charters) in Poland. Standing up against attacks on the fundamental rights of LGBTI people is crucial to combat the increasing threat of the anti-democracy and anti-rights movement which seeks to destabilise Europe.

We must ensure the law is upheld and not misused, for example through legal harassment, so-called “LGBT propaganda” laws, anti-foreign agent laws and bans on prides. The Parliament must build on the EU commitment to freedom of speech and the protection of journalists and rights defenders by ensuring a high-quality EU directive on combatting SLAPPs. The protection of free speech and freedom of assembly is essential to maintaining a healthy and vibrant democracy.

### **Freedom of Movement**

Freedom of movement is still not equal for LGBTI people and their families across the EU. Parliament should [continue to push for](#) equal recognition of parenthood across borders as required by the CJEU in the [Baby Sara case](#) (Case C-490/20) and the full implementation of the 2018 [Coman and Others v. Romania](#) ruling on recognition of same-sex marriages across borders (Case C-673/16). Trans and non-binary people also face significant barriers in accessing their freedom of movement due to differing legal procedures for legal gender recognition across Member States, as has been raised in the [ongoing CJEU case](#) of a trans man with dual Romanian and UK citizenship whose gender recognition certificate obtained in the UK is not being recognised in Romania. We urge Parliament to ensure that the fundamental EU right of freedom of movement is equally accessible to all LGBTI people and their families.

### **The Rights of Intersex People**

Following from the Parliament’s adoption of a landmark [Resolution on the Rights of Intersex People in 2019](#), there has been positive movement towards recognition of intersex rights on an institutional level in Europe. Spain and Greece are the most recent countries to introduce a ban on intersex genital mutilation (IGM), however most Member States have far to go on protecting intersex people. The Parliament has a role to play in continuing this momentum by calling for a ban on intersex genital mutilation at both the national and EU levels coupled with robust monitoring, prosecution, and redress mechanisms, as modelled in the [EU response to female genital mutilation](#). The EU should create good practice exchange spaces on this, under the upcoming harmful practices recommendation.



The European Commission has this year conducted a study on the experiences of Intersex people in the EU. It is important to ensure that this is repeated during the coming mandate to assess the impacts of policy and legislative changes over time. Furthermore, the EU must increase availability and accessibility of funding for intersex-led groups and organisations in all countries where it is active.

### **The Rights of Trans People**

There exists increasing polarisation and politicisation of the rights of trans people in many places across the EU. Dangerous and hateful rhetoric from politicians and the media is creating a hostile society for trans people, and requires a strong and united institutional voice to stand up in support. Actions to counter this must be sensitive to the potential harm they could cause by further enflaming the discourse and positioning the existence of trans and non-binary people as a political debate.

Despite this, there have been positive achievements made in the legal recognition of transgender people, with 8 EU Member States now allowing for legal gender recognition based on self-determination. European parties and MEPs need to play a role in pushing for legal reforms to fully protect the rights of trans people in all areas of EU policies (health, freedom of movement, education, access to and in employment to name some) and continue to work with their national governments to ensure legal gender recognition based on self-determination for all, access to trans-specific healthcare, as well as anti-discrimination protections for trans people are in place. We also need parties and politicians to play an active role in countering the anti-trans attacks, by elevating alliances between women's rights and LGBTI and trans organisations and actively countering the attacks and false interpretations being spread.

It is important to also ensure that the Commission's 2020 Trans Study is repeated during the coming mandate to assess the impacts of policy and legislative changes over time, including by maintaining the legal gender recognition Cluster monitoring established by the Study.

### **Asylum and Migration**

Across Europe and Central Asia, more and more LGBTI people are needing to leave their homes to seek safety. The problems faced by LGBTI asylum seekers are common across all Member States, especially when it comes to issues such as accommodation, detention, access to specific healthcare, recognition of their identities, procedural elements, and determination of safe countries. There is a need to ensure that the specific vulnerability of LGBTI people is taken into account and that all measures are made LGBTI inclusive. As has been raised by the [European Parliament](#) and [ILGA-Europe](#) previously, accelerated procedures and lists of safe countries of



origin push the burden of proof onto the asylum seeker themselves and overlook the fact that "safety" in terms of LGBTI rights is malleable, very locally-context specific, and can vary considerably across differing identities.

However, measures to protect LGBTI asylum seekers can only function in a fair and effective asylum system. Asylum decisions cannot be fair if they are based on incorrect country of origin information, rushed or unduly delayed. Due to lived experiences of stigma, discrimination and violence, both in the country of origin and on the migration route, LGBTI asylum seekers in some cases need more time to come forward with their sexual orientation, or disclosing their gender identity/expression, or being intersex. In this way, inefficiencies in the system can undermine the ability of LGBTI asylum seekers to receive the protections they are due. In order to ensure that LGBTI migrants and asylum seekers are adequately protected, the overall system must afford all migrants and asylum seekers dignity and fair process.

Given the difficulties that displaced individuals from Ukraine, including LGBTI people are currently enduring and the uncertainties they may continue to face even after a second extension of the Temporary Protection Directive, it is crucial for the EU Parliament to take proactive steps. This involves addressing the necessity for prolonged protection and ensuring clarity regarding their legal status and rights in EU member states by avoiding any discrimination and applying double standards for persons from Ukraine and other third countries.

## **Health**

The European Union is increasingly creating policy and recommendations and guidance for Member States on health. In this work, the barriers and challenges faced by LGBTI people are frequently absent. It is vital that the European Parliament ensures that: (1) LGBTI issues are represented in discussions of health-related files and (2) gaps in inclusion are raised with the European Commission in political spaces to push for a fully inclusive approach, including but not limited to the contexts of data collection and funding.

## **Data**

In the current mandate, the European Union has created several important pieces of work around data and LGBTI people, including the 2019 FRA LGBTI II Survey, the 2019 and 2023 Eurobarometers on LGBTI acceptance, and the *Guidance note on the collection and use of data for LGBTIQ equality*. These products have been integral to moving policy and advocacy discussions forward by providing the foundations for data-based policymaking. In the next mandate, ILGA-Europe would like to see increased focus on: (1) data creation, including with longitudinal comparability, (2) data disaggregation at the EU and Member State levels, including regarding data from surveys not focused on LGBTI people directly (e.g. surveys on Roma or on



women), and (3) efforts to ensure that data collection and analysis are community-informed, with meaningful engagement with LGBTI organisations.

It is also important that these data, once collected, are used to inform and guide policy making. The studies completed in recent years have resulted in a robust set of institutional knowledge about the lives of LGBTI people and how they are marginalised. There needs to be systematic thinking about how to mainstream these findings within policy making and ensure that the data collected are driving policy solutions.

### **Socio-economic inequality**

The next parliamentary mandate for 2024-2029 will be crucial for the success of the several social policy targets set for 2030, which include milestone equality measures such as the European Pillar of Social Rights action plan and the European Platform on Combatting Homelessness. It is vital that the incoming Parliament ensure their work is focused towards the realisation of these goals and a more equal Europe.

A third of all LGBTI people reported having difficulty making ends meet, according to the [2019 FRA LGBTI II Survey](#). LGBTI people often face discrimination when seeking employment or discriminatory treatment at work, leading to financial insecurity and greater risks of poverty, social exclusion and homelessness. Trans and intersex people are especially vulnerable in this regard. The current EU LGBTIQ Equality Strategy has provided a valuable focus on this area through encouraging the use of ESF+ funding by Member States to increase the participation of LGBTIQ people in the labour market and sharing knowledge between Member States. In order to ensure proper implementation of this action point, we call on the European Parliament to work towards ensuring that LGBTI people are mentioned as a target group in the next programming of the ESF+.

It is also important that LGBTI people are included in the ongoing progress of the European Platform on Combatting Homelessness (EPOCH). LGBTI people make up a significant cohort of the homeless population, particularly among [young people](#), and have unique pathways into homelessness. Awareness of this vulnerability is necessary for effective prevention strategies and inclusive services.

### **Crisis Preparedness and Humanitarian Responses**

The past few years have been marked by repeated crises and it is unlikely that this era of “permacrisis” has ended. We now have a valuable opportunity to use the learnings from past crisis responses to increase preparedness and ensure that future actions are more proactively



inclusive and effective. A large amount of evidence on how LGBTI people are unintentionally left behind in crisis response has been collected during the [Covid-19 period](#) and the [ongoing war in Ukraine](#). For example, differences in parental recognition legislation and marriage across borders left rainbow families separated during pandemic lockdowns, and trans and intersex Ukrainians have faced huge difficulties in accessing necessary medication both in Ukraine and in host EU countries as well as in crossing borders to seek refuge. We need to ensure that the [knowledge gained](#) from previous experiences is implemented and that [good practises](#) of inclusion of LGBTI people in crisis preparedness and humanitarian response are put forward as standards, including by ensuring that LGBTI organisations, among others representing marginalised groups, play a meaningful role in developing crisis response and crisis preparedness to avoid unintended harmful consequences.

### **Gender Based Violence and Conversion Practices**

The proposal for the Directive on Combatting Violence Against Women and Domestic Violence and EU ratification of the Istanbul Convention have been huge achievements in tackling GBV by the current mandate. The 2024-2029 Parliament needs to follow this up by prioritising the effective implementation by both member states and the EU. The Parliament also should further strengthen protection for LGBTI people in the upcoming revision of the Victims Rights Directive and implementation of the Harmful Practises recommendation. The Parliament has a vital role to play in pushing for these documents to be intersectional, for example by stress testing resulting policy to assess differences in experience of those exposed to multiple marginalisation compared to those not, and include appropriate protections for all people facing gender-based violence.

To date, six EU Member States have introduced bans on conversion practices: Malta, Germany, France, Greece, Spain and Cyprus. Such practices cause enormous psychological and physical pain, with effects such as severe mental health problems, social isolation, guilt, shame, suicidal ideation and PTSD. Cross-border collaboration and EU guidance is necessary to successfully end these harmful practises in Europe. The [EPRS](#) noted in its 2022 briefing on this subject that “the ban on conversion 'therapies' is leading to a relocation of institutions offering such services to neighbouring Member States”. The Parliament can be a leader in advocating for collective EU action to end conversion therapy.

### **Enlargement**

As the EU expands its pool of candidates for joining the EU, it becomes even more crucial that work towards equal rights for LGBTI people in the framework of the accession negotiations are conducted in a meaningful and sustainable way. The enlargement process has been key in



ensuring progress on fundamental rights in the enlargement region over the years, but rights gained for LGBTI people remain fragile. Therefore, investment in civil society and maintaining fundamental rights standards is key to prevent backsliding. LGBTI organisations in this region form part of the civil society framework which is fighting to maintain democracy in an increasingly anti-democratic environment, and should be supported in a sustainable way. The European Parliament should continue to include LGBTI rights in its annual reports on the enlargement countries, and MEPs working on these countries should step up their efforts, via dialogue with their respective partners, to ensure that legislative and policy changes granting equal access to rights for LGBTI people are properly implemented, so that LGBTI people can experience the real, tangible effect of the enlargement process on the improvement of their rights.

### **EU External Policy**

The EU should ensure the continuation of support for LGBTI people in its external policies by leveraging its existing instruments, such as the Generalised Scheme of Preferences (GSP) and the EU Global Human Rights Sanctions Mechanism and role at the international human rights fora. In addition to providing flexible and accessible funding to smaller organisations and those working under restrictive environments (such as foreign agent laws), the EU should utilise these instruments to actively address discriminatory legislation and encourage the adoption of comprehensive legislation that grants LGBTI people equal rights. Furthermore, the EU should use its diplomatic channels to promote dialogue and cooperation with partner countries, advocating for the decriminalisation of sexual orientation, gender identity, gender expression, and sex characteristics (SOGIESC) in all relevant legislative frameworks. The European Parliament plays a key role in holding the European Commission and EEAS to account to achieve this. It is essential for the European Parliament to amplify its voice and demand that international human rights standards are upheld in all the countries that the EU has relations with, and that these rights are guaranteed for all people in society.

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### **Need more information about LGBTI people's lived realities across Europe and Central Asia?**

ILGA-Europe publishes each year an **Annual Review of the human rights situation of LGBTI people in Europe and Central Asia**. This provides insight into the lived realities of LGBTI people, which are complex, diverse, and multifaceted, and which cannot be captured by legislation and policy alone. We invite you to explore [the 2023 edition](#), to obtain a fuller picture of what has been accomplished and what remains to be done when it comes to the human rights of LGBTI people, so that it may inform your conversations and political decision-making.

