

# Open letter from ILGA-Europe and Italian LGBTI civil society on the occasion of the PES Election Congress in Rome

[News](#), [Italy](#)

On Saturday 2 March, the Party of European Socialists is gathering in Rome for their Election Congress ahead of the June 2024 EU elections to discuss their priorities for the campaign and for the future of the EU.

We are grateful that the Party has chosen Rome as the location of this important gathering, as Italy is currently one of the countries in the EU facing the challenge of rapidly deteriorating rule of law and democratic standards, as well as direct attacks on fundamental rights of vulnerable groups, all of which the Party has acknowledged as being some of the greatest challenges facing the future of the EU. The Party of European Socialists has always stood in defence of democracy, rule of law and fundamental rights, and therefore the Congress taking place in Italy is particularly significant.

In your Election Resolution adopted in December 2023, you have rightfully stated that attacks on gender equality, women's rights and LGBTI rights are inherently linked to de-democratisation and the undermining of EU law and international standards on fundamental rights. On the occasion of your Congress in Rome, Italian LGBTI civil society would therefore like to raise your attention to the current direct attacks on the fundamental rights of LGBTI people in Italy, led by Italy's current government. We ask the Party to shine a light on the deplorable situation unfolding in Italy for LGBTI people, and for its member parties to support LGBTI civil society in withstanding and responding to these attacks, the Partito Democratico and Partito Socialista Italiano.

## **1. The Italian government's planned amendments to the asylum law which would remove protection for LGBT refugees, would breach EU law**

The Italian government plans to remove the protected grounds of sexual orientation and gender identity (SOGI) from the asylum law. This would mean that LGBT refugees are no longer protected based on their SOGI status.

In addition, on March 25, 2023, the list of so-called "safe countries of origin" was updated with the addition of two more countries where homosexuality is criminalised, Nigeria and The Gambia, and without providing any exceptions for at-risk categories, such as LGBTI people. These are in addition to Tunisia, Algeria, Morocco, Senegal, and Ghana.

Under EU law, Italy has several obligations to provide protection to vulnerable groups, including those based on sexual orientation and gender identity. Here are some of the key obligations:

- The Qualification Directive (Directive 2011/95/EU) requires member states to provide protection to refugees and persons eligible for subsidiary protection on the basis of, among other things, their sexual orientation and gender identity. Italy is obliged to implement the Directive into its national law.
- The EU's asylum system is based on the principle of non-refoulement, which means that individuals cannot

be returned to a country where they would face persecution or serious harm. This includes individuals who are at risk of persecution or serious harm based on their sexual orientation or gender identity.

- The EU's Reception Conditions Directive (Directive 2013/33/EU) requires member states to ensure that asylum seekers have access to appropriate medical and psychological care, including care related to sexual orientation and gender identity. Italy is obliged to implement the Directive into its national law.

## **2. The government has ordered the discontinuation of transcriptions of foreign birth certificates of children born from surrogacy or artificial reproduction technology**

In January 2023, the government issued a Directive instructing local authorities to discontinue the automatic transcription of foreign birth certificates of children born through surrogacy and inviting them to register only the biological parent. A second Directive was later issued, clarifying that these guidelines should also be followed in cases of children born following other artificial reproduction technology. Some prosecutors began to retroactively challenge the transcription of foreign birth certificates of children born to same-sex parents. In Padua at least 33 mothers of 37 children received notification that their child(ren)'s birth certificates, in which two women's names appeared, were illegitimate. In many cases, the deregistration comes after many years, and the children thus 'lose' one mother, and sometimes their family name, from one day to the other. This exposes children to vulnerability and the loss of a number of family rights as guaranteed by the UN Convention on the Rights of the Child (UNCRC).

While the government claims that parents have a legal route to establish parentage of the second parent, namely via a special adoption procedure ("adozione in casi particolari"), LGBTI organisations have long pointed out that these procedures can take up to years, are very costly and depend on the courts, which vary from region to region.

The European Court of Human Rights has clearly ruled that Member States need to establish a mechanism to allow for recognition of the parent-child relationship for non-genetic parents, such as through adoption, and that children should not be blamed for their parents' decisions, including about conception. In her 2023 country report on Italy, the Council of Europe Commissioner for Human Rights [confirmed](#) that the Italian procedure does not comply with the best interests of the child and reminded that even Italy's Constitutional Court recommended the legislation be amended accordingly to ensure adoption rights for all families without discrimination. In the absence of legally ensured adoption for all, the Commissioner called on Italy to stop deregistering parents, as some prosecutors have started to do in a response to the governmental Decree.

## **3. Schools have been called upon to no longer accept the gender identity of trans children in education**

In Italy the gender identity of trans students is not recognised by default. About 300 schools, though, have adopted a regulation to do it, called *Carriera Alias*. It allows (among other things) to change the name of the student in the internal documents and the school information systems. *Carriera Alias*, in other words, is a tool to avoid misgendering of trans and non-binary students, allowing them to use their chosen name, gender and pronouns in educational contexts. Regional Counselor of Lombardia, Giacomo Zamperini of the governing party *Fratelli d'Italia*, tabled a motion to delegitimise the *Carriera Alias* by [defining it as](#) "illegitimate" and as "an attack against traditional family values, promoting the gender agenda". The motion was then rejected, however, Counselor Pietro Macconi (also from governing party *Fratelli d'Italia*), [wrote a letter](#) to the Minister of Education and Merit, also asking for the *Carriera Alias* to be reviewed, with the clear aim of seeking its abolition in educational institutions. The Minister's response is pending.

## **4. A law has been drafted to penalise surrogacy conducted abroad with criminal sanctions**

The government is considering criminalising surrogacy arrangements made by Italian couples abroad, a move they claim is in line with protecting women and "traditional family values". But in reality there is a risk that the children concerned (especially those in a rainbow family) may lose rights if their (intended) parents are indicted. As already mentioned, this is despite the European Court of Human Rights emphasising that children should not be blamed for

their parents' decisions (about conception). In light of the understandable controversy surrounding surrogacy, these children have a right to the protection of their private and family life.

## **5. Case Careggi: an investigation threatening the lives of transgender youth in Italy and the important work of health professionals**

On 23 January 2024 the Minister of Health started an investigation requested by Senator Maurizio Gasparri from Forza Italia, on the public service of the Careggi Hospital in Florence, regarding the administration of triptorelin, a hormone blocker, to trans youth. The investigation is an attack on trans adolescents because it puts the service administered at Careggi at risk of closing down, regardless of the fact that these treatments are considered by the professionals as "a life-saving treatment" for trans youth.

The scientific community has reiterated that triptorelin is useful to avoid the risk of exposure to depression, self-harming behavior, eating disorders, and suicidal thoughts for trans and gender-diverse youth. Although the right to health in Italy is guaranteed by the Constitution, the health and psychophysical well-being of trans youth is being questioned on ideological grounds, with an increasing use of anti-gender propaganda based on incorrect medical-scientific information spreading in the media. The Careggi Hospital is one of two health centres in the whole country providing triptorelin treatment for trans youth. The World Health Organisation's revision of ICD-11, which came into force in January 2022, mandates the depathologisation of trans identities in all areas of life. However, the Italian National Health System continues forcing trans people to undertake long and costly psychotherapy paths not in line with international standards and which impede trans youth from accessing the healthcare they need to live their lives in dignity and safety.

## **Conclusion**

It is clear that the current government has begun a concerted attack on the rights of LGBTI people and on their ability to live their lives with dignity. The above-mentioned steps that the government is taking are clearly in breach of international human rights standards, such as EU law (the relevant asylum directives, as well as the non-discrimination clauses of the Charter of Fundamental Rights and EU Treaties), the case law of the European Court of Human Rights, the European Convention on Human Rights and the recommendations of the Council of Europe's Commissioner for Human Rights. These attacks are also reminiscent of developments happening in other countries that have seen LGBTI people as an easy target for stirring up unfounded fear in order to score cheap political points – now clearly identified as an authoritarian tactic used for example in Russia and Hungary.

It is crucial that the Partito Democratico and Partito Socialista Italiano work closely with Italian LGBTI civil society as partners to strategically tackle these current and future attacks, not only to protect the rights that all people are entitled to, but also to stem the oncoming tide of anti-democratic manoeuvres by the current government, and to work to create a critical mass opposing these trends. We call on the Partito Democratico and Partito Socialista Italiano to propose bold and comprehensive legislative changes that would guarantee adoption rights to same-sex couples, add SOGIESC as protected grounds in the hate crime law, and ban conversion practices on LGBTI people.

We hope that this PES Election Congress can mark the beginning of a constructive and strategic cooperation at the Italian level, and that the Party can highlight the situation of Italian LGBTI people to their European partners.

In solidarity,

## **Signatories**

- Arcigay
- ARCO – Associazione Ricreativa Circoli Omosessuali

- Associazione Famiglie Arcobaleno
- Associazione Quore APS
- Centro Risorse LGBTI
- Certi Diritti
- Circolo di Cultura Omosessuale Mario Mieli
- Gruppo Trans APS
- Gaynet – Formazione e Comunicazione LGBTI
- ILGA-Europe – the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association
- Indie Pride
- Rete Genitori Rainbow