



# EUROPEAN UNION

## ACCESS TO GOODS AND SERVICES

The Finnish Presidency of the EU 2019 organised a policy debate on Enhancing anti-discrimination legislation in the EU in the Social Question Working Party and in the Employment, Social Policy, Health and Consumer Affairs Council configuration (EPSCO) meeting in October. The discussion aimed to discuss how to move forward on the Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation {SEC(2008) 2180} {SEC(2008) 2181}, which has been blocked in Council since 2008. However, no real progress was made in the debate. At the same time, European Commission President Ursula von der Leyen made the commitment to propose new anti-discrimination legislation during her mandate.

## ASYLUM

The reform of the Common European Asylum System (CEAS), which includes important protections for LGBTI asylum seekers, saw no meaningful progress before the end of the 2014-2019 legislative term, with no agreements reached on the Dublin IV Regulation and Asylum Procedures Regulation. At the start of its mandate, the new European Commission for 2019-2024 proposed replacing the CEAS with a Pact on Migration and Asylum, concentrating on finding a solution for the two remaining files, and keeps in place the progress achieved on the five CEAS files that have found provisional agreement – the Qualification Regulation, Reception Conditions Directive, EURODAC Regulation, Union Resettlement Framework Regulation, and the European Union Asylum Agency (EUAA).

On 11 July, the European Asylum Support Office (EASO) organised through its Consultative Forum a thematic meeting on gender-related persecution, with specific attention to SOGISC specific issues. The meeting resulted in the production of concrete recommendations by EASO for Member States to improve the protection of asylum seekers who face particular vulnerabilities in the European asylum system due to their gender and/or sexual orientation, gender identity, or sex characteristics.

On 4 September, EASO held the second meeting of its Vulnerability Experts Network Advisory Group, to review common challenges experienced across different grounds of vulnerability, and to inform the discussions of the Steering Group in order to guide Member States' asylum-related priorities in 2020.

## BIAS-MOTIVATED SPEECH

On 30 January, the European Commission published the results of its fourth evaluation of the voluntary Code of Conduct on countering illegal hate speech online, including of hate speech targeting people on SOGI grounds on the internet platforms Facebook, Twitter, YouTube and Instagram. Hate speech targeting sexual orientation was the second most commonly reported ground (15.6 per cent), while 3.7 per cent of reports concerned hate speech targeting gender identity.

The European Commission expanded the scope of the Code of Conduct application and future monitoring exercises through commitments by additional Internet company, Jeuxvideo.com, on 19 January-

On 3 October, the Court of Justice of the European Union (CJEU) issued a judgment declaring that host providers such as Facebook can be compelled to proactively remove content and comments from their sites that have previously been determined to be illegal.

On 6 November, the LIBE Committee in the European Parliament organised a hearing on “Media Freedom, Freedom of Expression and Combating hate speech online and offline”, with many speakers, including ILGA-Europe raising the rise in LGBTI phobic hate speech across Europe.

On 18 December, the European Parliament adopted a resolution on “Public discrimination and hate speech against LGBTI people, including LGBTI free zones”, following a debate in the European Parliament on public discrimination and hate speech against LGBTI people, which was held in plenary in Strasbourg on 26 November. The resolution expresses deep concern at the growing number of attacks against the LGBTI community coming from the State, State officials, Governments at the national, regional and local levels, and politicians in the EU. It recognises that such attacks have seen a rise in violence against LGBTI people, with hate crimes motivated by



homophobia and transphobia on the rise across the EU while responses from authorities too often remain inadequate. It reiterates a call on the Commission to adopt an EU LGBTI strategy and a comprehensive, permanent and objective EU mechanism on democracy, rule of law and fundamental rights that includes the protection of LGBTI rights.

## BIAS-MOTIVATED VIOLENCE

On 20 March, in the final meeting this legislative term of the EU High-Level Group for Countering Racism, Xenophobia and Other Forms of Intolerance, the European Commission presented the Staff Working Document: [Countering Racism and Xenophobia in the EU \(2019\)](#), setting out three priorities for future work, each lead by a working group: recording and data collection practices, including reporting of hate crime; training and capacity building for national authorities, aimed at ensuring effective implementation of national law on hate crime and hate speech; and developing and implementing hate crime victim support systems and services. The first meeting of the Working Group on hate crime recording of led by the Fundamental Rights Agency, took place in The Hague, Netherlands, on 20/21 November.

## BODILY INTEGRITY

In February, the European Parliament adopted a [Resolution on the rights of intersex people \(2018/2878\(RSP\)\)](#), acknowledging the ongoing human rights violations intersex people still face in the EU today, and setting out clearly what needs to be done both on national and EU level, such as ensuring protection against any form of discrimination under the ground “sex” and putting in place legislation that will finally ensure a protection of intersex people’s bodily integrity.

In its resolution, the European Parliament “strongly condemns sex-normalising treatments and surgery” and encourages Member States to adopt legislation that protect the bodily integrity of intersex people “as soon as possible”. It also confirms that intersex people are “exposed to multiple instances of violence and discrimination in the European Union” and calls on the European Commission and the Members States to propose legislation to address these issues.

## DATA COLLECTION

The [EU LGBTI II survey](#) was carried out from 28 May to 20 July by the EU Agency for Fundamental Rights (FRA), and was open to responses from people aged 15 years and above who self-identify as LGBTQI+, and who live in an EU Member State, Serbia, or North Macedonia. This is the second EU-level survey about the lived experiences of LGBT people, following FRA's [first LGBT survey](#) in 2012, and is the first such survey to include specific attention also to the experiences of intersex people. The survey is currently in the data analysis stage, with the final results due to be published in spring 2020.

The European Commission [Study on Transgender People in the EU](#) was implemented in 2019, to examine the relationship between the existence of legal gender recognition measures and the wellbeing of transgender people, as well as their sociodemographic and socioeconomic position in society. This entailed quantitative research using existing EU datasets, as well as qualitative research engaging over 700 transgender individuals through online consultations, telephone interviews, and focus groups. The final report is due to be published in spring 2020.

On 23 September, the [Special Eurobarometer on Discrimination 2019: The social acceptance of LGBTI people in the EU](#) was published by the European Commission. Based on fieldwork conducted in May 2019, the Eurobarometer presents the perceptions of the general public in the EU about the social acceptance of LGBTI people and discrimination based on sexual orientation, gender identity and sex characteristics.

## EMPLOYMENT

On 16 May, European Commissioner organised the 10th EU diversity Charter's Annual Forum in Brussels.

On 15 July, the Court of Justice of the EU (CJEU) held a public hearing in the case of NH v Associazione Avvocatura per i diritti LGBT – Rete Lenford (Case C-507/18) in a Grand Chamber. The case concerns applicability of anti-discrimination rules in the field of access to



employment and non-discrimination under the Directive on equal treatment in employment and occupation (EU Directive 2000/78/EC). The case originated as a result of a radio interview held in Italy on 16 October, 2013, where a senior lawyer stated he would never hire a homosexual person to work in his law firm. The Italian Corte suprema di cassazione requested the CJEU to clarify the European anti-discrimination law's application to such statements. Following the hearing in July, CJEU Advocate General (AG) Sharpston delivered opinion on 31 October, concluding that such remarks are likely to hinder access to employment, thus falling within the Directive, and would not be in violation of freedom of expression. Furthermore, concerning the standing of Rete Lenford, the opinion clarified that associations with a legitimate interest may be granted standing to bring proceedings and claim damages in the absence of an identifiable victim, like in the case at stake. The Court's ruling is expected to be delivered in 2020.

## ENLARGEMENT

On 13 February, the European Parliament [adopted](#) its 2018 report on the accession of Turkey. The report recommends the Commission and the Council to formally suspend the accession negotiations with Turkey, in light of multiple human rights abuses and regression of the rule of law. The report also specifically expresses concern about violations of the human rights of LGBTI people, in particular the repeated bans on Pride marches and LGBTI-related events across the country which are still being imposed, despite the lifting of the state of emergency, and calls on Turkey to lift these bans immediately.

The European Commission's Enlargement Progress Report 2019, [published](#) in May and covering 2018, recommended a number of steps regarding the improvement of LGBTI rights across the region of the Western Balkans. These included addressing insufficiencies regarding adoption and implementation of anti-discrimination laws inclusive of SOGI, investigation of hate crimes, access to justice, access to healthcare, trans rights, intersex rights, tackling negative public attitudes towards LGBTI people, adoption of laws on registered partnership and legal gender recognition. When it comes to Turkey, the report recognised the backsliding on human rights and democracy, noting that no progress had been made on human rights from the previous year's report. The Commission particularly urged the Turkish authorities to improve freedom of assembly and protection for LGBTI people, and to take measures to stop intimidation and violence against LGBTI people.

With these reports the European Commission acknowledged the progress made in Albania and North Macedonia in the past year and recommended to the Council for the second time the opening of accession negotiations with the two countries. The 2019 package included an Opinion on Bosnia and Herzegovina's application for membership of the European Union, and an analytical report that for the first time reviews the situation in the country against all standards applicable to EU Member States. However, at the EU summit on 17-18 October, member states failed to agree on opening EU accession talks with Albania and North Macedonia.

The European Parliament adopted a [resolution](#) on 24 October on its disappointment at the EU's failure to agree on opening accession talks with North Macedonia and Albania due to the blocking of France, Denmark and the Netherlands. LGBTI rights activists in both countries and in the region have pointed to the detrimental impact this precedent will have on LGBTI rights in North Macedonia and Albania.

## EQUALITY AND NON-DISCRIMINATION

On 16 January, the European Parliament [adopted](#) its yearly report on Fundamental Rights in the EU, assessing the implementation of fundamental rights in the EU in 2017 according to the Charter of Fundamental Rights standards. It contains strong language on multiple aspects of LGBTI rights.

On 12 February, the European Parliament [adopted](#) a resolution on the backlash in women's rights and gender equality in the EU. The resolution addresses the current "visible and organised effort at the global and at the European level against gender equality and women's rights," whose targets are among others LGBTI people's human rights. The European Parliament points out how this backlash was especially visible in 2018 around the topic of the Istanbul Convention, whose adoption has opened doors for violent hate speech targeting LGBTI people in particular, and expresses concerns about the rise of LGBTI-phobic hate speech.



On 14 February, the European Parliament adopted a Resolution on the future of the LGBTI List of Actions (2019-2024), calling on the European Commission to ensure strong follow-up to the European Commission LGBTI List of Actions 2014-2019, including by adopting a comprehensive and coherent EU LGBTI Strategy.

On 23-24 September, the Finnish Presidency of the EU organised a High-level conference on advancing LGBTI equality in the EU: from 2020 and beyond. The two-day meeting included speeches from Commissioner Jourova and the Finnish Minister for Nordic Cooperation and Equality and the Minister for Education, Culture and Science, The Netherlands, high-level panels as well as eight thematic workshops on priority areas identified for the conference, as input to the EC work plan and follow-up of the list of actions for LGBTI rights.

On 1 December, the new European Commission started its work, with Helena Dalli being Commissioner in charge of the newly established Equality mandate. It was announced that each DG would establish an equality task force to further the mainstreaming of equality and non-discrimination throughout the work of the European Commission.

## FAMILY

In June, the EU directive on work-life balance for parents and carers (2019/1158) was adopted, including minimum standards for paternity leave and providing inclusive definitions of families and carers, including rainbow families.

## FOREIGN POLICY

In 2019 the EU adopted a new Strategy on Central Asia. Under the promoting resilience priority in Central Asia, the EU will continue promoting respect for human rights in compliance with international standards, with a focus on freedom of expression (including media pluralism), freedom of association, women's rights, children's rights, the rights of minorities and fight against discrimination, and prevention and eradication of torture.

In the European Parliament resolution of 14 March on the human rights situation in Kazakhstan, two references to LGBTI rights were made, regarding equality and non-discrimination.

On 26 March, the European Parliament adopted a report on the new comprehensive agreement between the EU and Uzbekistan. The report gives recommendations to the Council and the Commission, including on how to integrate human rights within their relations with Uzbekistan and specifically for the negotiation of the agreement. The report specifically addresses LGBTI rights issues, by asking the Council and the Commission to “encourage the authorities to decriminalise consensual sexual relations between persons of the same sex and foster a culture of tolerance for LGBTI people”.

## PARTICIPATION IN PUBLIC, CULTURAL AND POLITICAL LIFE

Antonio Tajani, President of the European Parliament, was listed as one of the main speakers at the World Congress of Families in Verona (29-31 March), a conference stating as its goal to defend the “natural family as the only fundamental and sustainable unit of society”. Members of the LGBTI Intergroup wrote to President Tajani, asking him to confirm publicly that he will neither attend nor support this conference. Tajani was taken off the programme but no explanation of his engagement with the World Congress of Families was given in response to the letter.

Ahead of the European Parliament elections, 23-26 May, over 1650 candidates across all EU Member States signed ILGA-Europe's ComeOut pledge. After the elections, 225 MEPs from eight different political groups signed the Come Out pledge, strengthening the support in numbers and geographical and political diversity.

In December, the LGBTI Intergroup was one of the 20 Intergroups listed for approval by the European Parliament, with the highest number of MEPs signed up to join the reestablished Intergroup.

In June, Commissioner Jourova and FRA director Michael Faherty attended Europride in Vienna and spoke on the main stage.