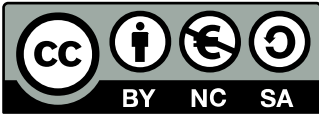




**The EU LGBTIQ Equality Strategy 2020-2025
and its key action items for trans people
TGEU Progress Report 2023**





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The EU LGBTIQ Equality Strategy 2020-2025 and its key action items for trans people: TGEU Progress Report 2023

Author	Deekshitha Ganesan
Contributors	Daniyar Orsekov, Farah Abdi, Francesca Sanders, Richard Köhler, and Vanya Solovey
Layout	Dragiša Mioč
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TGEU (Transgender Europe) is a trans-led nonprofit for the rights and wellbeing of trans people in Europe and Central Asia. TGEU represents 200+ member organisations across 50 countries.

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Overall assessment

TGEU considers the EU LGBTIQ Equality Strategy 2020-25 to be an important development which reinforces the EU's commitment to protecting the rights of LGBTIQ people. As we have noted in previous progress reports, we welcome the mainstreaming of LGBTIQ issues through all EU Commission work, the recognition of intersectionality as a core principle, the complexity of discrimination faced by trans and gender-diverse people ("trans") on account of intersecting vulnerabilities, and the attention paid to issues affecting trans people. We also welcome that the Pay Transparency Directive was adopted in 2023. Besides its potential to end inequality in the labour market, it is the first EU legislation recognising the lives of non-binary people.

At the same time, TGEU is concerned that while the EU LGBTIQ Equality Strategy mentions trans people and their specific needs, this has not translated into sufficient concrete action that protects trans people. Three years into the implementation of the strategy, the EU hate crimes extension proposal is still blocked and gender identity, gender expression, and sex characteristics are missing from the proposed Equality Bodies directive. Certain activities such as good practice exchanges for member States on legal gender recognition and employment have taken place, but need to be regularly repeated to ensure sustainable progress.

Mainstreaming of trans issues needs improving and intersectionality as a concept is still not fully understood by all policymakers. In the context of policy development, adopting an intersectional approach would necessitate a

comprehensive recognition of and response to the unique challenges faced by trans people who experience discrimination due to the compounded effect of racism, sexism, ableism, classism, and xenophobia. To understand how intersectional discrimination plays out, we require rigorous data collection, targeted outreach to communities, and the development of specific interventions to respond to systemic barriers. However, an intersectional approach is lacking from many activities under the Strategy. For example, the ongoing reform of the Common European Asylum System is a disaster for trans asylum seekers. The proposed speedy screening procedures in prison-like border camps, enabling of member States to outsource asylum procedures, and approval for non-EU countries to be declared "safe", even where it can be impossible to live as a trans person, contradicts the commitment in the Strategy to "ensure appropriate protection of vulnerable (including LGBTIQ) applicants in the context of the common European asylum system and its reform."

Original concerns from civil society, such as the lack of a timeline or points of contact, and uneven commitment across the EU Commission, are evident now in the implementation. The visible opposition to trans rights in many EU member States and concrete legal and policy rollbacks in law and policy need to be addressed head-on by the EU Commission. The LGBTIQ Strategy is a good starting point for our political leaders in the EU Commission and the EU Council to show support for LGBTI rights.

To realise the goals of the Strategy and in preparation for the development of the next strategy, we need a reinforcement of the commitment for LGBTI rights and equality across the EU Commission, with a substantial increase in resources for key actors within the EU Commission, such as the Equality Commissioner and other Directorates General (DGs). Building internal capacity on trans-specific issues and improvement in the collection of data is crucial for DGs and to ensure that other DGs like the DG-SANTE and DG-EMPL can take the initiative on actions under the Strategy. Further, a greater commitment to intersectionality is urgently needed, to ensure that the full spectrum of trans experiences receive attention, which will in turn lead to more effective and equitable outcomes.

For the remaining period of the strategy, TGEU calls for the following from these institutions:

European Commission

- ensure adequate staffing and resourcing for the implementation of this Strategy, particularly for the office of the Equality Commissioner, and
- renew political commitment from across the President of the EU Commission and her College of Commissioners for the office of the Equality Commissioner;
- introduce stronger cross-departmental collaboration amongst DGs for the implementation of all four EU equality strategies;
- initiate investigations into the compliance of EU member States with their obligations under EU law to secure trans people's rights

in areas of equal access to employment, goods and services, and victims rights;

- ensure continued conversation of European civil society with the LGBTIQ subgroup;
- name contact points and improve systems for civil society organisations to engage on the implementation of the Strategy, for example through an internal task force; and
- prepare for the next LGBTI Equality Strategy 2025-2030 with measurable, time-bound and resourced goals as well as monitoring and evaluation mechanisms.

European Parliament

- hold the EU Commission accountable for the implementation of the spirit and letter of this Strategy, be it in legislative or non-legislative files;
- be ambitious and ensure trans and non-binary people are explicitly included in EU law; and
- renewed commitment and engagement for a timely follow-up strategy.

EU Council

- we call upon progressive Member States to hold the EU Commission accountable for the implementation of its equality strategies;
- defeat attempts by anti-trans and anti-LGBTI member States who undermine EU values and democracy, and
- to achieve this, make passing of the hate crime extension in the EU Council a priority.

In a nutshell

In November 2020, the EU Commission published the EU LGBTIQ Equality Strategy 2020-2025, its first comprehensive strategy for advancing the rights for lesbian, gay, bisexual, trans, intersex, and queer (LGBTIQ) people in the European Union. The strategy sets out actions and commitments across five themes:

- Tackling discrimination against LGBTIQ people
- Ensuring LGBTIQ people's safety
- Building LGBTIQ inclusive societies
- Leading the call for LGBTIQ equality around the world
- Delivering on the strategy: making full use of EU initiatives

EU LGBTIQ
Equality Strategy
(2020-2025)



The EU LGBTIQ Equality Strategy is an important symbol of a cohesive commitment by the European Commission towards achieving equality for LGBTIQ people in the EU. TGEU welcomed its release in 2020, noting that the Strategy “signals a new level of awareness and commitment of the EU for the equality of LGBTIQ people.

TGEU's first **Progress Report 2021** identified elements of the Strategy that specifically targeted the trans community or where we foresaw significant impact on the lives of trans people in the EU.

The **Progress Report 2022**, which came mid-way through the Strategy's implementation, gave an overall assessment of how the strategy is delivering (or not) for trans people in the EU, as well as an update of what has been achieved. We also included examples of how TGEU has been supporting the implementation of the Strategy and our recommendations. We expressed concern that halfway through the strategy's timeline, it will fail trans people in the EU, which is recovering from multiple crises like the COVID pandemic, the Ukraine war, and anti-gender attacks. We also noted that the strategy needs stronger cross-departmental collaboration to be successful and that many key legislative proposals were blocked or did not go far enough to explicitly protect gender identity.

For this report, we follow the same format as the Progress Report 2022 and assess a number of new activities undertaken under the Strategy, the inclusion of trans people within them, and their effectiveness. This report reviews the work done and developments until 5 November 2023 of which we have knowledge.

There are two new topics in this year's report: one sub-section on HIV advocacy and one on EU action for LGBTIQ equality globally. Our

main concerns from this year's report are that many key legislative files that are trans-inclusive continue to be blocked at the EU and require reinvigorated efforts by the EU presidency, the EU Council and the EU Commission to advance them. As in 2022, we see comprehensive involvement of different DGs at the EU Commission as essential for the Strategy's success.

With EU elections and the end of this EU Commission's term in sight, new laws cannot be expected in 2024. Nevertheless, it is an important year. In 2024, the course must be set for a renewed institutional commitment for LGBTIQ rights beyond 2025. Our findings so far reiterate that the next EU Commission needs to:

- make the protection and recognition of trans people a priority in legislative and non-legislative files;
- commit sufficient resources in DGs across the EU Commission;
- provide clear timelines and tangible goal; and
- identify clear points of contact.

Progress towards the biggest highlights

In the strategy, the Commission committed to key initiatives for trans people across four main pillars. Below we outline the progress made among the follow areas:

1

Tackling discrimination

- 1.1 Equality bodies
- 1.2 Asylum
- 1.3 Health
- 1.4 Depathologisation of trans identities

2

Ensuring safety

- 2.1 EU crimes extension
- 2.2 Gender-based violence

3

Building inclusive societies

- 3.1 Legal gender recognition
- 3.2 Rainbow families

4

Leading the call for LGBTIQ equality around the world

- 4.1 Strengthening the EU's engagement on LGBTIQ issues in all external relations

1 Tackling discrimination

1.1 Equality bodies

Propose EU legislation strengthening the role of equality bodies

From the EU LGBTIQ Equality Strategy

1.1 Enforcing and improving legal protection against discrimination

“The Commission will ensure rigorous application by Member States of the rights covered by the Employment Equality Directive and will report on the Directive’s application in 2021. ... By 2022, the Commission will put forward any legislation required as a result, in particular on the role of equality bodies.” p5

What has been achieved so far

In December 2022, the EU Commission published its **proposal for two directives** to strengthen the minimum standards of equality bodies. Directive 2022/0400 (COD) is of both the EU Parliament and the EU Council and covers equal treatment regardless of sex in matters of employment and occupation. Directive 2022/0401 (APP) of the EU Council covers race or ethnic origin in matters of employment and occupation, and religion or belief, disability, age, sexual orientation and sex in matters of social security and access to goods and services.

The proposals set out binding rules for equality bodies and focus on how equality bodies can support the enforcement of existing EU Directives on social security (**79/7/EEC**), employment and occupation (**2000/78/EC**), and goods and services (**2004/113/EC**). While all these elements are important and welcome,

they do not propose expanding the mandates of equality bodies to cover any additional grounds than the six grounds of the Treaty of the Functioning of the EU, specifically gender identity and gender expression. They also do not affirm that ‘sex’ should be understood to cover these grounds.

In July 2023, the European Parliament considered the directive on equal treatment regardless of sex in matters of employment and its **draft report** recommended that the language be amended to include explicit reference to gender identity and gender expression, protection of trans and non-binary people, the importance of considering intersectional discrimination, and the possibility for equality bodies to investigate discrimination without a single victim needing to identify themselves and come forward. TGEU strongly supports these amendments. The EU Council has also **agreed on its general approach to the directives**. At the end of 2023 these amendment texts will be discussed and voted on internally before negotiations between the EU Council and the EU Parliament begin.

Why it is important

According to TGEU’s **Trans Rights Map**, only 20 EU Member States have equality bodies that include trans people in their mandate; however not all of them operate to the same standard. For example, they have varying levels of independence from the government. Stronger equality bodies with mandates that explicitly include gender identity could support trans people to better know and attain their rights in areas such as employment, access to goods and services, and hate speech in all member States of the EU.

What TGEU has done in support

In 2023 TGEU:

- Contributed to stakeholder consultations organised by Equinet, the European network of equality bodies, and attended by civil society with an interest in strong standards for equality bodies, with the goal to share viewpoints and exchange on strategies and legal arguments.
- Together with the European LGBTI networks Organisation Intersex International Europe (OII Europe) and European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA-Europe), and supported by the EuroCentralAsian Lesbian* Community (EL*C) and International Lesbian, Gay, Bisexual, Transgender, Queer & Intersex Youth and Student Organisation (IGLYO), TGEU wrote a **position paper** on the two directives, outlining the potential value of the directives to the trans (and intersex) communities and our recommendations for amendments to strengthen them.
- Together with OII Europe and ILGA-Europe, engaged in direct advocacy with the EU Parliament and the EU Council on the need for these directives to include explicit references to the protected grounds of gender identity, gender expression, and sex characteristics.

TGEU recommends

TGEU supports the introduction of these directives as they have the potential to strengthen and raise the minimum standards of equality bodies across the EU, which themselves have huge potential for protecting the rights of trans people. TGEU calls for explicit mention in the directives that the ground of

sex also covers gender identity and gender expression in line with the current trajectory of EU laws, decisions, and reports, so that there is no ambiguity around their application to trans people. TGEU also recommends that the EU Commission encourages member States to mandate their equality bodies to work on these grounds, even if not required by EU law.

1.2 Asylum

Ensure appropriate protection of vulnerable (including trans) applicants in the context of the common European asylum system and its reform

From the EU LGBTIQ Equality Strategy

1.4 Upholding the rights of LGBTIQ applicants for international protection

“The common European asylum system addresses the specific situation and needs of vulnerable (including LGBTIQ) applicants for international protection. The EU Commission has made proposals to reform the common European asylum system by making it more resilient and effective while respecting the protection needs of such applicants.

The Commission will foster good practice exchanges between the Member States on addressing the needs of LGBTIQ applicants for international protection, focusing on: how to guarantee safe and suitable reception conditions, including accommodation, for LGBTIQ applicants for international protection; protection standards that apply in relation to their detention (where

applicable); and how to prevent the examination of their applications from being influenced by anti-LGBTIQ discrimination and/or stereotypes.

The European Union Support Office will improve training for protection officers and interpreters to ensure that the examination of LGBTIQ people's applications for international protection is not influenced by stereotypes and is in line with international/EU law and other relevant instruments." p9

What has been achieved so far

Contrary to the Strategy's ambition to protect LGBTI asylum seekers' rights, the EU Commission presented a **10-Point Plan for Lampedusa** which lacks specific measures to address the unique challenges faced by LGBTI asylum seekers. LGBTI asylum seekers often face traumatic experiences, including persecution, violence, or forced conversion therapy due to their sexual orientation and gender identity. The plan should have included clear guidelines on how to identify and assess the claims of LGBTI asylum seekers to ensure their protection.

There continues to be an emphasis on expedited border procedures which are harmful for vulnerable asylum seekers, such as LGBTI people. Expedited border procedures are especially detrimental to LGBTI applicants, because there is insufficient time to build trust and communicate with authorities. This can lead to the rejection of their application and the risk of refoulement.

In June 2023, the EU Council reached an **agreement** on the Asylum Procedure Regulation and the Asylum and Migration Management Regulation. In both files, the proposed legislation risks the systemic legitimisation

of deprivation of liberty of asylum seekers at the border, which is incompatible with the presumption against the detention of asylum seekers and refugees laid down in international human rights law.¹

The European Union Asylum Agency (EUAA) has established training modules for authorities dealing with applicants seeking asylum on the grounds of sexual orientation, gender identity or expression, or sex characteristics (SOGIESC). The module covers a broad range of issues, including terminology and best practice referral procedures. The agency is also in the process of drafting 'Advanced SOGIESC Guidelines' that will be available to member States.

Why it is important

The two legislative proposals – the Asylum Procedure Regulation and the Asylum and Migration Management Regulation – constitute a dangerous move, depriving applicants of international protection of their fundamental rights and preventing them from enjoying basic procedural safeguards. Applicants subject to border procedures should be recognised as having entered the EU territory. Trans asylum seekers are among the most vulnerable groups of people that come to the EU seeking protection. It is the obligation of the EU to make sure that all asylum seekers, particularly those with intersecting vulnerabilities, are protected and not persecuted by any asylum and migration legislation.

¹ Article 9 of the Universal Declaration of Human Rights: No one shall be subjected to arbitrary arrest, detention or exile.

What TGEU has done in support

TGEU's work on the legislative proposals has included working on a policy brief which clearly lays out the issues and suggests possible solutions to safeguard protections for trans applicants. The policy brief also includes suggested amendments. We have developed an advocacy plan to work with MEPs holding the files. TGEU also continues to run awareness raising campaigns on the needs and experiences of trans asylum seekers.

Further, we have participated in consultations with the EUAA on the development of the training modules mentioned above with a focus on ensuring that trans asylum applicants access safe, fair, and just reception and asylum conditions. TGEU is developing critical parts of the Advanced SOGIESC Guidelines, including a chapter on intersectionality.

TGEU is also a member of the EUAA Consultative Forum, which holds a plenary meeting once a year, supplemented by meetings of thematic discussion groups.

TGEU recommends

TGEU calls upon the EU Commission and member States to reverse their proposals on the Asylum Procedure Regulation and the Asylum and Migration Management Regulation. As they stand, these proposals would severely limit the rights of trans asylum seekers to a fair procedure and to have their human rights protected. Once the Advanced SOGIESC Guidelines are complete, TGEU urges all relevant stakeholders within member States to refer to and use them in their asylum policies.

1.3 Health

Mental Health

From the EU LGBTIQ Equality Strategy

1.3 Combating inequality in education, health, culture and sport

“The EU Commission will encourage and facilitate Member States’ exchanges of best practice in addressing the mental health challenges faced by a significant number of LGBTIQ people.” p8

What has been achieved so far

TGEU welcomes the EU Commission's “Comprehensive approach to mental health” which is based on three guiding principles: prevention, access to healthcare and treatment, and reintegration. The EU Commission set up a working group on mental health and COVID-19 and also organised conferences on mental health and the pandemic, following which this comprehensive approach is a concrete outcome. The EU Commission also released a call to collect best practices on mental health, which is an important initiative as we urgently need more good and promising practices that can be replicated. However, the mental health needs of trans people have not been sufficiently addressed and despite strong evidence that the pandemic had a serious impact on the mental health and well-being of LGBTI people and trans people in particular, the document does not sufficiently unpack the issues or solutions that are relevant to the community.

Why it is important

While certain aspects of the mental health needs of the trans community mirror those of the general population, trans people face particular mental health issues. It is well-established that the minority-stress experienced by trans people is a key contributor to poor mental health outcomes and the rates of anxiety and depression among trans people is higher than the general population. Further, TGEU's research on the COVID-19 pandemic demonstrates that trans people reported increased anxiety and constant stress due to extreme isolation on the one hand or cohabitation with abusive family members on the other. In addition, trans people may also have unique mental health and psychosocial needs as part of their transition-related care. The existing programme developed by the EU Commission, which addresses different aspects of mental healthcare, is unlikely to be sufficient to target and address the specific causes for the mental health concerns of trans people.

What TGEU has done to support

TGEU participated in the webinars and meetings organised by the EU Commission to develop and launch the comprehensive approach to mental health.

TGEU Recommends

The Council of Europe is undertaking an extensive exploratory webinar and study on mental health needs of the LGBTI population, through the 2023 Thematic Review on LGBTI Health, as part of the annual thematic review of the Committee of Ministers CM/Rec (2010)5. The review also covers the situation in a number of EU member States and we urge

the EU Commission to establish exchanges with the Council of Europe to effectively use the information gathered through this process to develop a work programme that is focused on the mental health of LGBTI people, and particularly of trans people. TGEU also recommends that the EU Commission conducts a specific consultation with the trans community in order to develop this programme.

Research on the intersectional experiences of LGBTIQ people pertaining to health

From the EU LGBTIQ Equality Strategy

1.3 Combating inequality in education, health, culture and sport

“Research on the intersectional experiences of LGBTIQ people, as those who are elderly or with disabilities, is often lacking. Horizon Europe will support gender studies and intersectional research relevant for LGBTIQ people, including on health. The EU Commission will disseminate the research results, including their recommendations and policy guidance, and organise an EU-wide conference through the EU Health Policy Platform.” p8

What has been achieved so far

The Horizon Europe 2023-24 work programme has dedicated EUR 30 million to conduct research on the barriers experienced by patients, including trans and intersex individuals, and examine their social, financial and health vulnerabilities. While the call has been opened and applications invited for

research projects, it remains to be seen how many projects on trans health will receive funding.

As reported in TGEU's Progress Report 2022, TGEU does not have any information on the commitment to organise an EU-wide conference, through the EU Health Policy Platform, on the intersectional experiences of LGBTI people including on essential issues of healthcare access.

Why it is important

Existing research shows that further marginalised trans people, including trans people with disabilities and older trans people, have poorer access to healthcare. Currently, one of the key barriers to commencing work under the Strategy on combating inequality in health for trans people is the lack of sufficient data and information on access to healthcare, healthcare utilisation rates, barriers, and the costs of lack of access for trans people. TGEU hopes that the research conducted by projects under the Horizon Europe programme will shed light on these important issues. The results can form the basis for the discussions at the conference committed to under the Strategy, which will be an important space to develop policy recommendations to strengthen access to healthcare.

What TGEU has done to support

Together with ILGA-Europe, TGEU tried to engage with DG-SANTE on health-related activities from the strategy. We were informed that the EU Commission does not have the necessary data or expertise on trans health and therefore, they look to civil society and other sources of expertise. TGEU and ILGA-

Europe are developing concrete suggestions for research projects that can boost the internal expertise of the EU Commission on LGBTI health. Direct engagement and meetings with DG-SANTE and a commitment to build knowledge and expertise within the EU Commission is essential for the successful implementation of the Strategy on health.

TGEU Recommends

We invite the EU Commission to make best efforts to use the outcomes of the research projects supported by the Horizon Europe programme and ensure wide dissemination of the results and policy recommendations through a conference in the upcoming two years. We also recommend sustained involvement of the DG-SANTE on healthcare issues as they are uniquely placed to facilitate data collection, gather best practices, and organise exchanges with member States. TGEU is committed to supporting this endeavour.

EU4Health training modules

From the EU LGBTIQ Equality Strategy

1.3 Combating inequality in education, health, culture and sport

“Member States will be encouraged to organise training for healthcare professionals to raise awareness of the health needs of gay and bisexual men; lesbian and bisexual women; intersex people; and trans people and to avoid discrimination and stigmatisation in access to health services. The training material from the HEALTH4LGBTI project will be further disseminated and offered to Member States.”

The EU Commission will encourage and facilitate Member States' exchanges of best practice in addressing the mental health challenges faced by a significant number of LGBTIQ people.” p8

What has been achieved so far

TGEU has no information on whether the training was provided to healthcare professionals.

Why it is important

Out of all trans respondents to the FRA 2019 **LGBTIQ Survey**, one third (34%) indicated they had experienced discrimination by healthcare or social services personnel (e.g. a receptionist, nurse or doctor, a social worker). For trans women this share increases to 40%. This affects trans people's ability to access essential health care.

What has TGEU done to support

Together with ILGA-Europe, TGEU tried to engage with DG-SANTE on health-related activities from the strategy. More information from DG-SANTE on the training modules is required for TGEU to provide feedback and assist with distributing the training material.

TGEU Recommends

TGEU recommends that any existing training material be updated to fully reflect depathologisation of trans identities. Further, we recommend that the EU Commission establishes a connection with the European Professional Association for Transgender Health (EPATH), which is engaged in training and education for primary and specialist healthcare providers, to disseminate the materials

pertaining to trans health and explore how it can be integrated into existing training and education programmes in different medical curricula.

HIV advocacy

From the EU LGBTIQ Equality Strategy

1.3 Combating inequality in education, health, culture and sport

“The Commission will support projects that use cultural expression to tackle discrimination, build trust and acceptance, and promote the full inclusion of LGBTIQ people. The Commission will enhance LGBTIQ equality mainstreaming in relevant employment, education and health initiatives (in particular those regarding mental health initiatives and HIV/AIDS prevention) and EU funding programmes (e.g. EU4Health and Erasmus+).” p8.

What has been achieved so far

TGEU welcomes the “CORE – Community Response to End Inequalities” project, a three-year EU Action Grant active from January 2023-December 2025. It collaborates with 24 entities across 16 EU member States. CORE's mission is to diminish disparities in the treatment and prevention of HIV, TB, and viral hepatitis. It emphasises bolstering community interventions, which have been essential for reaching communities typically overlooked by conventional prevention and healthcare provisions. This strategy is especially crucial in countries where these interventions fall short of the EU's average standards. The EU4Health Programme 2021-2027, the most substantial

among EU health initiatives since 2003 with a €5.3 billion budget, partially funds CORE.

Why it is important

The CORE project focuses on reducing disparities in the responses to major health challenges such as HIV, TB, and viral hepatitis. Health inequalities can perpetuate cycles of poverty and disadvantage, so addressing them is vital for promoting social and economic cohesion within the EU. The project also emphasises strengthening community-based interventions, which have shown efficacy in reaching communities that are traditionally neglected by mainstream healthcare and prevention services. By doing so, it aims to ensure that no group is left behind in the effort to combat these diseases. The involvement of 24 partners from 16 EU member States fosters collaboration and sharing of best practices. This collaboration can lead to more efficient and innovative solutions in addressing the health challenges at hand.

In countries where health responses are subpar compared to the EU average, the approach taken by CORE is crucial. By targeting these areas, the project can bring them up to par with other EU countries, ensuring a more uniform health standard across the region.

The project reflects the principles of the Global AIDS Strategy 2021–2026, highlighting international recognition of the importance of community-centred approaches in addressing HIV and other health challenges. Given that the world did not meet the 2020 HIV treatment targets, projects like CORE are crucial in recalibrating and strengthening the global response to HIV and associated health challenges.

What has TGEU done to support

TGEU is a pivotal member of the Advisory Board, ensuring the incorporation of a trans perspective. Notably, TGEU has provided support to Work Packages 4 and 5 and participated in the work meeting held in Lisbon from October 11-13, 2023. During this session, substantial efforts were dedicated to revising the COBATEST instrument to guarantee that its terminology is inclusive of the trans community. This revision ensures accurate data collection regarding trans individuals seeking HIV-related services. Additionally, TGEU took the initiative to encourage partner organisations to extend their services to trans communities, especially if such services were not previously available to this crucial demographic.

TGEU Recommends

TGEU advocates for the initiation of projects tailored specifically to trans communities, considering that they are among the most impacted by HIV. While the CORE project is undeniably crucial, it does not augment the provision of HIV-related services for trans communities or concentrate on enhancing existing services. Furthermore, TGEU recommends that the EU Commission establish a partnership with EPATH, given their role in educating and training healthcare professionals. They are aptly positioned to disseminate resources pertaining to trans-specific health concerns within the realm of HIV-related services. Integrating these resources into existing educational and training programs is imperative for addressing and mitigating transphobia and cisnormativity within the healthcare sector.

1.4 Depathologisation of trans identities

From the EU LGBTIQ Equality Strategy

1.4 Protecting and promoting LGBTIQ people's bodily and mental health

“Harmful practices such as non-vital surgery and medical intervention on intersex infants and adolescents without their personal and fully informed consent (intersex genital mutilation), forced medicalisation of trans people and conversion practices targeting LGBTIQ people may have serious bodily and mental health repercussions. The EU Commission will foster Member States’ exchange of good practice on ending these practices. Forced abortion and forced sterilisation and other harmful practices against women and girls are forms of gender-based violence and serious violations of women’s and children’s rights. The EU Commission will also include an intersectional perspective in the Recommendation on harmful practices against women and girls announced in the Gender equality strategy 2020-2025.” p13

What has been achieved so far

The EU Commission is developing a document targeted at member States on recommendations for ending harmful practices against women and girls; it is expected to be published by the end of 2022. In preparation for this, the EU Commission consulted extensively with civil society stakeholders on the issues and harmful practices considered important.

Why it is important

The World Health Organisation formally depathologised trans identities in 2019 through

ICD-11. Furthermore, the European Court of Human Rights has established in multiple decisions that requiring trans people to undergo any medical intervention in order to access legal gender recognition (LGR) is in violation of their human rights. Despite this most EU member States still pathologise trans identities in some form or another and Czechia, Latvia, and Romania still require sterilisation to access legal gender recognition.

What TGEU has done in support

TGEU has been extensively involved in stakeholder consultations, both oral and written, with the EU Commission on the content of the recommendation. We have advocated against forced sterilisation as a requirement for accessing LGR, against conversion practices, and against any forced pathologisation of trans identities in order to access health care or LGR. TGEU considers these to be harmful practices and therefore should be banned by member States. TGEU is actively engaged on the question of implementation of depathologisation as per ICD-11 in EU member States and has sought regular meetings with the DG-SANTE on this issue. TGEU also supported MEPs at the European Parliament in preparing for an exchange of views on depathologisation of trans identities.

TGEU Recommends

TGEU calls on the EU Commission to publish a strong set of recommendations to member States that include specific guidance on harmful practices that affect the trans community, including forced sterilisation, forced pathologisation, forced gender reassignment, and conversion practices. TGEU also

recommends that the EU Commission work with EU member States on the implementation of depathologisation of trans identities as per ICD-11 by encouraging exchanges between member States and developing guidelines. Further, TGEU recommends that the DG-SANTE take a more active role on the issue of supporting member States with implementing depathologisation.

2 Ensuring safety

2.1 EU crimes extension

Proposal to extend the list of 'EU crimes' (Article 83 TFEU) to cover hate speech and hate crime, including when targeted at trans people

From the EU LGBTIQ Equality Strategy

2.1 Reinforcing legal protection for LGBTIQ people against hate crime, hate speech and violence

"As a first important step, in 2021, the Commission will present an initiative to extend the list of 'EU crimes' under Article 83 (1) of the Treaty on the Functioning of the European Union (TFEU) to cover hate crime and hate speech, including when targeted at LGBTIQ people." p12

What has been achieved so far

In December 2021, the EU Commission adopted its position that the list of EU crimes in Article 83(1) of the Treaty for the Functioning of the EU (TFEU) should be extended to include hate speech and hate crime. A large number of member States are **in favour of the extension**. However, without unanimity in the EU Council, it remains blocked. As noted in the EU Commission's progress report on the implementation of the EU LGBTIQ Equality Strategy, any secondary legislation (Directive) that could include an explicit reference to protection of trans people must wait for this to be passed first.

Why it is important

According to TGEU's **Trans Rights Map**, only 14 out of 27 EU countries include trans people

or gender identity in their national hate crime legislation and 13 in their national hate speech legislation. If this decision were to pass, it would allow for secondary legislation that would include how national governments define and sanction hate crimes. While stronger laws alone will not end transphobia nor transphobic violence, it sends a strong message of high-level support that violence, hate speech, and crime against trans and other LGBTI people are not tolerated in the EU. At a time when anti-gender rhetoric is being spread by politicians, the media, and others, and violence against trans people and trans-led organisations is rising, such a message of solidarity and a concrete step toward tackling the problem is much needed.

What TGEU has done in support

TGEU, together with other regional LGBTI network organisations, has been in regular dialogue with the EU Commission on the importance of including trans people in this law. In December 2021, ILGA-Europe, OII Europe and TGEU wrote to EU Commissioners Reynders and Dalli urging them to ensure hate crimes on grounds of sexual orientation, gender identity, gender expression and sex characteristics are covered by the EU Commission's proposal. We are optimistic that the decision can be passed at the EU Council, and, once it does, we are ready to work with the EU Commission on the accompanying Directive.

TGEU Recommends

TGEU calls on all member States within the EU Council to come to a swift agreement on the EU crimes extension, as this will pave the way for a significant step forward in our united approach against bias-motivated crime, including against trans people.

2.2 Gender-based violence

Action to tackle gender-based violence

From the EU LGBTIQ Equality Strategy

2.1 Reinforcing legal protection for LGBTIQ people against hate crime, hate speech and violence

“The Commission will also take action to tackle gender-based violence, as announced in the gender equality strategy” p12

What has been achieved so far

In March 2022, on International Women’s Day, the EU Commission **released a proposal** for a directive on combating violence against women and domestic violence. TGEU welcomes that the proposal includes reference to LGBTI women, undocumented women, and women sex workers and groups at particular risk of violence. TGEU regrets that the proposed directive does not offer full protection to all those marginalised groups who experience gender-based violence, despite the EU Commission’s commitment to do so in the LGBTIQ Equality Strategy and Gender Equality Strategy.

In June 2023, the EU Council **adopted its general approach** to the text, weakening the text with several deletions, including of the criminal offence of rape. In July 2023, the Parliament **agreed on its position** regarding the text, strengthening the EU Commission’s proposal to include criminalisation of forced sterilisation, violence on the basis of gender identity and gender expression as requiring particular attention, and reference to all LGBTI

victims as in need of specialised support. Concerningly, both institutions replaced reference to women sex workers with ‘women in prostitution’. Negotiations between the EU Council, the EU Parliament, and the EU Commission, are ongoing.

Why it is important

Trans women experience heightened and unique marginalisation and violence as a result of being at the intersection of oppression on the bases of gender identity and gender expression – and often also based on other characteristics. This directive has the potential to contribute to the prevention of such violence and support for its victims. The draft directive is also significant for its inclusion of a consent-based definition of rape and its references to undocumented migrant women and women sex workers as groups particularly at risk of violence. However, to be truly protective of all trans people, it needs to cover all people who experience violence as a result of their gender identity and gender expression.

What TGEU has done in support

In collaboration with other regional LGBTI network organisations and a coalition of feminist human right organisations, TGEU has been advocating for strong inclusion of LGBTI women and LGBTI victims in the directive as groups of people at significant risk of gender-based violence and in need of specialised services, in addition to keeping the references to women sex workers and undocumented migrant women and the ban on forced sterilisation in the text. Our **detailed collective position paper and suggested amendments** can be found on our website.

TGEU recommends

Our main recommendations for strengthening the Directive are:

- Explicit inclusion of LGBTI women as victims with increased risk of violence against women or domestic violence and of LGBTI people as victims of domestic violence;
- Need for specialised protection and victim support services and improving access to justice and prevention;
- Prevention, protection and availability of specialist support services for victims of harmful practices such as intersex genital mutilation; and
- Need for inclusive and specific data collection, including sexual orientation, gender identity, gender expression, and sex characteristics.

Additionally, we see it as important that EU institutions work towards inclusion of gender-based violence in the list of EU crimes in Article 83(1) of the TFEU. This would offer full protection to women in all their diversity as well as people with diverse sexual orientations, gender identities and expressions, and sex characteristics.

3 Build inclusive societies

3.1 Legal gender recognition

Support member States put in place accessible legal gender recognition legislation and procedures

From the EU LGBTIQ Equality Strategy

3.3 Improving the recognition of trans and non-binary identities, and intersex people

“The Commission will foster best practice exchanges between Member States on how to put in place accessible legal gender recognition legislation and procedures based on the principle of self-determination and without age restrictions.” p16

What has been achieved so far

The EU Guidelines on LGBTI National Action Plans, published in 2022, recommend member States to “[p]ut in place, in accordance with the priorities and legislation of the Member States and EU and international case law, transparent and accessible legal gender recognition legislation and procedures based on self-determination” as a measure to ensure effective legal protection of LGBTIQ people and proper enforcement of the law. The guidelines have been developed by EU member States in the LGBTIQ Equality Subgroup of the High-Level Group on non-discrimination, equality and diversity, which is coordinated by the EU Commission.

In 2023, the EU Commission however did not publicly engage on LGR, apart from recommendations in the Guidelines for National LGBTI Action Plans that had been developed by the member States. This seems a missed

opportunity, given the numerous countries dealing with progressive and even regressive legislative reforms and developments. While Spain and Finland managed to adopt laws that base LGR on self-determination, similar legislative proposals in Sweden, the Netherlands, Germany, and Lithuania have been facing open trans-hostility during public debate. An attempt in Slovakia to ban LGR, similar to the situation in Hungary where adapting the birth registry to one’s gender identity is prohibited since 2020, was defeated at the last moment. The Bulgarian Supreme Court of Cassation deliberately grossly misinterpreted a judgement of the European Court of Human Rights, leading to a verdict that practically bans LGR in the country.

Trans people have brought cases before the European Court of Justice (CJEU), where the EU Commission is required to present its opinion and make an assessment of the claims. Currently, there are two cases of particular significance: first, on the recognition of LGR obtained in another EU member State and its importance for free movement in the EU and the second, on the non-conformity of gendered identification requirements with article 5 of the General Data Protection Regulation (right to rectification of inaccurate data entries). These questions present two concrete possibilities for the Commission to show support for recognition of gender identity before the CJEU.

Why it is important

Even in previously progressive countries like Sweden, the Netherlands or Germany, LGR has become a “contested” issue, where a self-determination approach is challenged under false pretexts. Right-wing populist wins

in political elections, such as in Slovakia in September 2023, make it more likely that self-determination-based reforms will come under heavy fire and that even bans may grow as a political option in the future. Since LGR is a basic non-discrimination law, many trans, non-binary and intersex people need it to be able to access EU rights and freedoms.

What TGEU has done in support

TGEU has been proactive in making interventions and submissions before different processes dealing with LGR, where we reiterated the importance of LGR that is based on self-determination in opening doors for trans people to access basic EU rights and freedoms. For instance, we provided input during the drafting of the EU National Action Plans guidelines that were prepared by the EU LGBTIQ Equality Subgroup and also reviewed the document as a civil society organisation with relevant expertise. Further, we provide our members with advocacy and litigation support to engage in relevant EU processes. In June 2023, we briefed and met with the European Commission on the draft law to ban LGR in Slovakia. TGEU also supported applicants in trans-relevant cases from EU member States before the CJEU and the European Court of Human Rights.

TGEU recommends

In the current political climate, the EU Commission must come out strongly in favour of LGR based on self-determination. It is long overdue for the EU to recognise that humane LGR procedures are a precondition to enjoy basic EU rights and freedoms, such as citizenship rights, freedom of movement, equal

access to employment and to goods and services.

Concretely, we recommend that the Commission:

- Repeats the best practice exchange from 2021 for member States currently considering LGR reforms;
- Publishes an own analysis on a potential ban on LGR and its non-compliance with EU law;
- Issues opinions clearly supporting the applicants' claims in cases dealing with trans rights before the CJEU;
- Includes support for self-determination based on LGR in the follow-up EU LGBTIQ Strategy.

3.2 Rainbow families

Legislative proposal on the mutual recognition of parenthood between Member States

From the EU LGBTIQ Equality Strategy

3.2 Improving the legal protection for rainbow families in cross-border situations

“In 2022, the Commission will propose a horizontal legislative initiative to support the mutual recognition of parenthood between Member States, for instance, the recognition in one Member State of the parenthood validly attributed in another Member State.” p15

What has been achieved so far

In December 2022, the European Commission published its proposal for a Regulation on

“jurisdiction, applicable law, recognition of decisions and acceptance of authentic instruments in matters of parenthood, and on the creation of a European Certificate of Parenthood”. The goal of the regulation is to protect the rights of children in cross-border situations and ensure that “if you are a parent in one country, you are a parent in every country”. The focus is largely on ensuring same-gender parents of a child or parents of adopted children, regardless of nationality, are recognised as such across member States. It does not address the issue of trans parents having their legal gender recognised on kinship documents to enable easy movement across borders.

Why it is important

Currently, the lack of mutual partnership and parenthood recognition between EU member States leads to discrimination in exercising free and safe movement for many families. This is especially true for same-gender parents, including trans parents who are in a same-gender relationship. The ‘European Certificate of Parenthood’ has the potential to ensure that trans parents who have their gender identity recognised on their children’s document issued in one member State are also recognised in another member State. However when legal gender recognition does not extend to kinship documents, this can lead to discrimination when exercising free and safe movement for many trans parents and their children. This issue is not addressed by this Regulation.

What TGEU has done in support

TGEU has published two reports on the issues faced by trans parents in the EU, **one in March**

2021 specifically focused on freedom of movement, and a **second in May 2022** covering a wider range of issues. In 2021, TGEU advised the EU Commission for its forthcoming research on rainbow families. Since then TGEU has had limited engagement on this issue.

TGEU Recommends

The EU Commission should continue to explore options for ensuring that trans parents’ identities are reflected on kinship documents, that their relationships with their children are protected, and that travelling across EU borders is possible and safe. TGEU strongly encourages and is ready to support this work. Further, work needs to be done to tackle stigma, prejudice, and discrimination against trans people and outdated ideas about what families look like, which leads to negative experiences in cross-border situations and does not take into account the best interests of the child.

4 Leading the call for LGBTIQ equality around the world

4.1 Strengthening the EU's engagement on LGBTIQ issues in all external relations

From the EU LGBTIQ Equality Strategy

4.1 Strengthening the EU's engagement on LGBTIQ issues in all its external relations

“The EU will strengthen its engagement on LGBTIQ issues in its external relations at both political and technical level. It will make specific efforts to combat violence, hatred and discrimination and ensure that LGBTIQ rights are upheld in partner countries. As regards candidate countries... the Commission will press for LGBTIQ equality in the political dialogue and support measures to tackle violence, hatred and discrimination against LGBTIQ people... It will also support the monitoring and data collection on the situation of LGBTIQ people in the region...The Commission will continue to support national, regional and global programmes in favour of LGBTIQ human rights defenders and their organisations.” p. 18

“The EU will continue to offer a rapid response to protect individual LGBTIQ rights defenders. The Commission will continue to strive to ensure that humanitarian aid remains gender- and age-sensitive, is adapted to the needs of different gender and age groups (including LGBTIQ communities/individuals) and is in line with humanitarian principles, including that of impartiality (non-discrimination).”
p. 19

What has been achieved so far

The EU Commission's progress report of 2023 cites improvement in tackling violence

and discrimination in EU accession candidate countries, such as the introduction of civil partnerships in Montenegro, LGBTI Action Plans in Albania and Bosnia and Herzegovina. Yet no legislative improvement has been reached for trans communities, as confirmed by TGEU's members in the Balkans.

Further, the EU has adopted a new EU Strategy for Central Asia 2021-2027, which includes EU assistance programmes. TGEU welcomes the focus on sustainability in the context of human rights and democracy, security, and environmental issues. Regrettably, local trans initiatives are not explicitly mentioned, leaving the decision on how much they engage themselves for the rights of trans people to regional EU delegations.

The EU continues to offer a rapid response mechanism to protect individual LGBTI rights defenders at risk. It also mainstreams LGBTI equality into its humanitarian action and has integrated an intersectional dimension to the EU's 2021-2025 gender action plan tackling gender equality and women's empowerment into its EU external action (GAP III).

Why it is important

Trans communities are among the most vulnerable, including within the broader LGBTI communities. In 2023, the situation in EU neighbourhood countries has dramatically worsened for trans communities with Russia's ongoing war against Ukraine, but also due to the introduction of new anti-LGBTI and explicitly anti-trans laws. Specifically, Russia has introduced a full legislative ban on legal and medical transition, and Kyrgyzstan has adopted an anti-LGBTI gag law (a.k.a. “anti-propaganda

law”) copying one already in place in Russia. Further, in Kyrgyzstan, a draft law on “foreign agents,” which is vaguely worded, carries criminal penalty and has been copied from Russia, passed its first reading. These laws have a detrimental impact on trans and wider LGBTI communities and CSOs in the region. The global backlash against trans, LGBTI and women’s rights, which has roots in exports during colonialism by many EU member states, indeed needs a strong response from the EU. However, to avoid repeating mistakes of the past, this needs to go hand in hand with the activists leading the fight on the ground. Decisive action and targeted support for trans communities in EECA is urgently necessary, and more active engagement from the EU is key.

What TGEU has done in support

TGEU supports its members in Eastern Europe and Central Asia through targeted sub-grants and community-based monitoring and documenting of hate crimes and anti-trans violence in the region. These activities are essential to boost capacity, generate evidence, and assist their advocacy efforts at the national and international level.

In addition TGEU regularly engaged with the European External Action Service (EEAS), the EU’s primary agency dealing with diplomatic affairs. For instance, in the first months of Russia’s invasion of Ukraine in 2022, TGEU was in close contact with EEAS to facilitate evacuation of trans people from Ukraine seeking safety in neighbouring countries. We provided regular updates, numbers and lists of endangered trans people awaiting evacuation near the border. Further, when the draft anti-

propaganda law on prohibiting so-called “promotion of non-traditional sexual relations” was being considered by the Parliament in Kyrgyzstan (it was confirmed on 14 August 2023), TGEU was in regular contact with and advocated before the different international institutions including the EEAS.

In 2023, TGEU also engaged with EEAS at two events: in March at a meeting with civil society on the Mid-Term Review of the EU Action Plan on Human Rights and Democracy 2020-2022, and in October at a meeting on “FIMI (Foreign Information Manipulation and Interference) Targeting LGBTIQ+: Protecting Human Rights and Diversity”. The latter event was specifically focused on the impact of anti-LGBTI disinformation on human rights and democracy in the region and on ways for all stakeholders to resist it. At the March meeting, TGEU presented an intervention on the situation in the Eastern Europe, Central Asia and Caucasus region on information manipulation and information propaganda to incite hatred against trans and queer communities.

TGEU Recommends

TGEU welcomes the EU’s commitment to promoting LGBTI equality, supporting the LGBTI communities, and protecting LGBTI rights defenders in its partner countries. To increase the impact, we recommend:

- An explicit focus on trans rights and issues in documenting and pushing for improvement of laws and policies in EU accession candidate states, specifically, legal gender recognition, access to trans-specific healthcare, protection from violence, hate

speech and discrimination are key for trans people's access to basic rights and freedoms of the EU Acquis.

- Expand the rapid response mechanism for LGBTI defenders at risk and make it more accessible by streamlining the issuance of multi-entry long-term humanitarian visas for LGBTI defenders, providing funds for comprehensive emergency protection programmes covering relocation and housing costs, language training, and psychosocial support.

Engage directly with LGBTI CSOs on the ground to build trustful relationships, receive direct input and provide support with more impact.

Status of legislation

Key:

= stalled

= in progress

= adopted

Legislation advancing rights

THEME	PROPOSAL	DATE PUBLISHED BY EU COMMISSION	STATUS
Tackling discrimination	Strengthening equality bodies	Dec 2022	EU Council and EU Parliament in the process of adopting positions and ready to start negotiations at the end of 2023. ²
Ensuring safety	Extend EU crimes to include hate speech and hate crime	Dec 2022	Proposal published in Dec 2021, EU Parliament has adopted and currently blocked by EU Council. ³
	Violence against women and domestic violence directive	March 2022	EU Parliament and EU Council have adopted positions, second round of negotiations expected in Nov 2023. ⁴
Rainbow families	Mutual recognition of parenthood	Dec 2022	Negotiations in the EU Council are ongoing. ⁵
Pay Transparency Directive	Closing the gender pay gap	March 2021	Directive adopted in April 2023. ⁶

Legislation regressing rights

THEME	PROPOSAL	DATE PUBLISHED BY EU COMMISSION	STATUS
Asylum	Common European Asylum System	2020 onward	On 8 June 2023, the EU Council agreed on a negotiating position on the asylum procedure regulation. Negotiations are ongoing between the EU Council presidency and the EU Parliament. ⁷

² Status available on <https://www.europarl.europa.eu/legislative-train/theme-a-new-push-for-european-democracy/file-strengthening-the-role-of-equality-bodies-1>

³ Status available on https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/extending-eu-crimes-hate-speech-and-hate-crime_en

⁴ Status available on <https://www.europarl.europa.eu/legislative-train/theme-a-new-push-for-european-democracy/file-legislative-proposal-on-gender-based-violence>

⁵ Status available on <https://www.europarl.europa.eu/legislative-train/theme-a-new-push-for-european-democracy/file-recognition-of-parenthood-between-member-states>

⁶ Status available on <https://www.consilium.europa.eu/en/policies/pay-transparency/timeline-pay-transparency/>

⁷ Status available on <https://www.consilium.europa.eu/en/policies/eu-migration-policy/eu-migration-asylum-reform-pact/asylum-procedure/#:~:text=On%208%20June%202023%2C%20the,presidency%20with%20the%20European%20Parliament.>

