

Know Your Rights

How EU Directives Protect Trans People
Second Revised Version



tgeu.

Know Your Rights: How EU Directives Protect Trans People

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wellbeing of trans people since 2005.
TGEU is an umbrella organisation that represents
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How EU Directives Protect Trans People: An Overview

Disclaimer: Please note that this publication provides a general overview based on our analysis of EU law and case law, and should not be used as a substitute for professional legal advice.

This guide provides a basic overview of EU directives in which trans people are protected from discrimination, including through the explicit inclusion of the grounds of “gender reassignment”, “gender identity”, or “gender expression”. The previous version of this guide, published in 2015, had already identified five directives containing such grounds of protection, extending safeguards to trans people in relation to:

- the principle of equal treatment between men and women in access to and supply of goods and services (Directive 2004/113/EC)
- the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (Recast Directive 2006/54/EC)
- minimum standards on the rights, support, and protection of victims of crime (Directive 2012/29/EU)
- standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection (Directive 2011/95/EU) and common procedures for granting and withdrawing international protection (Recast Directive 2013/32/EU)

What are EU directives?

EU directives are a type of EU law that is derived from the principles and objectives established under the EU treaties. Directives are addressed by EU institutions to Member States, setting standards which they must achieve through their own legislation. However, EU directives do not prescribe how they should be implemented in the national legislation of each EU country. In other words, EU directives establish a common minimum standard, but leave flexibility for Member States as to how that standard is achieved.

All EU directives must be ‘transposed’, a process that incorporates an EU directive into national legislation. Once EU directives are adopted in the EU, the formal process of transposition begins. Usually, each EU directive contains a specific provision setting out the timeline by which the transposition at the national level should be completed.

Example

The Equality Bodies Directives (Directive (EU) 2024/1499 and Directive (EU) 2024/1500) require Member States to strengthen the mandate, independence, and effectiveness of national equality bodies that enforce anti-discrimination law.

To comply with these obligations, the government of EU *Country X* adopts amendments to its Equal Treatment Law. These amendments clearly define the mandate of the Office of the Equal Opportunities Ombudsperson, *Country X*'s national equality body, and guarantee its independence, including through transparent appointment procedures and sufficient financial and human resources.

The amendments grant the equality body powers to:

- provide free assistance to victims of discrimination,
- receive and investigate complaints,
- access relevant information,
- issue opinions or decisions,
- represent or support victims in court proceedings, and
- publish reports and recommendations on equality and non-discrimination.

In addition, *Country X* chooses to extend the scope of its Equal Treatment Law by explicitly including gender identity, gender expression, and sex characteristics as protected grounds. While Directives (EU) 2024/1499 and (EU) 2024/1500 do not require *Country X* to expand the list of protected grounds per se, they establish minimum standards and explicitly allow for more favourable national provisions. This creates space for *Country X* to strengthen protection by including those grounds in its domestic law.

The table below is a reminder of how trans people are protected in the EU directives referred to in the 2015 guide:

	GENDER IDENTITY	GENDER EXPRESSION	GENDER REASSIGNMENT
Goods & Services (Directive 2004/113/EC)			✗
Employment & Social Security (Recast Directive 2006/54/EC)			✗
Victims Rights (Directive 2012/29/EU)	✗	✗	
Asylum (Directive 2011/95/EU)*	✗		
Asylum (Recast Directive 2013/32/EU)*	✗		

Each of those directives are still in force. Some of the directives discussed in this guide bolster the protections discussed in the 2015 guide. For example, the Equality Bodies Directives discussed in the Example strengthen the principle of equal treatment between men and women in access to and supply of goods and services (Directive 2004/113/EC).



Under the new Common European Asylum System (CEAS) package adopted in 2024, these EU directives are being replaced by EU regulations and are now referred to as the Qualification Regulation and the Asylum Procedures Regulation. Unlike EU directives which must be transposed into national law, EU regulations are directly applicable in all Member States in a uniform manner and without the need for national implementing legislation.

To give Member States time to adapt, the Qualification Regulation established that it would not become binding until 1 July 2026 (until then Directive 2011/95/EU will apply) and the Asylum Procedures Regulation established that it would not become binding until 12 June 2026. It is important to note that these new EU regulations introduce EU wide standards for asylum procedures and systems. Previously, Member States had greater flexibility to develop these rules according to their national contexts. This greater level of harmonisation is one of the main reasons why the new measures have been adopted as EU regulations, replacing the previous EU directives.

To better understand the aims, definitions, and scope of protection in the directives mentioned in this table, please refer to the 2015 publication.

Are old EU directives still relevant?

Unless repealed or replaced by EU regulations, EU directives remain in force indefinitely after adoption. Even if the transposition deadline passed years ago, the rules do not 'expire'. As such, they continue to guide how courts interpret discrimination law and structure enforcement mechanisms. The meaning and application of directives can be clarified and expanded on over time through the case law of the Court of Justice of the European Union (CJEU). The CJEU applies both the primary sources of EU law and EU directives to nuanced circumstances arising from specific contexts. This exercise sheds light on what the EU principles and objectives, that both old and new EU directives are derived from, effectively require in the present day.

Example

Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security (which prevents discrimination based on sex in access to, contributions to, and benefits from public social security schemes) was adopted in 1978 and Directive 2010/13/EU (Audiovisual Media Services Directive, which creates a common EU regulatory framework for television, streaming, and certain video-sharing services) was adopted in 2010. Both Directives remain relevant today and their scope was recently decided on by the CJEU.

In 2026, the CJEU handed down its judgment in *Commission v Hungary* (C-769/22), concerning Hungarian anti-LGBTI propaganda laws, to recognise that the directives protect trans people. In this case, the Court clarified the meaning of 'sex' within these two directives. In its judgment, the Court stated in relation to Council Directive 79/7/EEC that: "discrimination based on sex cannot be confined simply to discrimination based on the fact that a person is of one sex or another, as that directive is also applicable, in view of its purpose and the nature of the rights which it seeks to safeguard, to discrimination arising from the gender reassignment of the person concerned (judgment of 27 April 2006, *Richards*, C-423/04, EU:C:2006:256, paragraph 24 and the case-law cited). That case-law must also apply to discrimination based on deviation from the self-identity corresponding to the sex assigned at birth." In other words, the CJEU clarified that EU protection against sex discrimination in social security law also extends to people whose gender identity differs from the sex assigned to them at birth.

The Court also clarified that the Audiovisual Media Services Directive:

"applies to discrimination arising from the gender reassignment of the person concerned, also covers discrimination based on deviation from the self-identity corresponding to the sex assigned at birth."

Practically, this means that Member States cannot lawfully restrict or stigmatise media content involving trans people merely because a depicted person's gender identity differs from the sex assigned at birth. In this case, Hungary had banned educational content on trans identities, imposed stricter age ratings on trans representation, and limited positive portrayals of trans people in audiovisual media.

While the original wording of these directives refers only to "discrimination based on sex", the Court's judgment makes clear that this protection also safeguards from discrimination linked to gender reassignment and gender identity.

The legal basis for the Judgment's approach to identify the scope of protection against "discrimination based on sex" is grounded in Art. 21 of the Charter of Fundamental Rights (CFR), which, like the cited EU directives, only uses the term "sex". This is an important development as the concept of a prohibition of discrimination based on gender identity independently from the sex assigned at birth and notwithstanding any 'gender reassignment' is now expressly recognised as a matter of primary EU law.

The judgment therefore is meaningful in safeguarding the rights of trans people because it must be considered when interpreting any secondary EU law, including EU directives which form the focus of this guide, regardless of whether they use the term "sex" or "gender". To what extent the concept of non-discrimination based on "sex" in this sense has an impact on other EU directives, however, depends on the specific context.

What does this new edition of the guide cover?

Since TGEU published our first Know Your Rights guide in 2015, additional EU directives have been adopted and are entering into force. These newer directives, which extend protections relevant to trans people in relation to a broader range of areas, form the focus of this guide:

- standards on the mandate, independence, resources, tasks, and powers of Equality Bodies to prevent discrimination, promote equality, assist victims of discrimination, and promote equal treatment (Directive (EU) 2024/1500 and Directive (EU) 2024/1499)
- the principle of equal pay for equal work or work of equal value between men and women, through pay transparency and enforcement mechanisms (Directive (EU) 2023/970)
- combating violence against women and domestic violence (Directive (EU) 2024/1385)

The table below illustrates how trans people have been expressly acknowledged under these newer directives. It should be kept in mind that, as highlighted in the 2026 *Commission v Hungary* (C-769/22) Judgment, a reference to a narrower notion, such as “gender reassignment” does not exclude, but rather implies protection against discrimination on the basis of the broader notion of “gender identity”.

	GENDER IDENTITY	GENDER EXPRESSION	GENDER REASSIGNMENT	TRANS
Equality Bodies (Directive (EU) 2024/1500)	×	×	×	
Equality Bodies (Directive (EU) 2024/1499)			×	
Pay Transparency (Directive (EU) 2023/970)			×	
Combating Violence Against Women (Directive (EU) 2024/1385)				×

Equality Bodies Directives (Directive (EU) 2024/1500 and Directive (EU) 2024/1499)

Equality bodies play a vital role in protecting people from discrimination and supporting victims. However, differences in how Member States structure and resource these bodies have led to uneven levels of protection across the EU. The objective of these directives is to strengthen equality bodies so that they can more effectively prevent and combat discrimination throughout the Union.

The two directives govern a number of key areas related to the functioning of equality bodies.

Directive (EU) 2024/1500 requires equality bodies to promote equal treatment of men and women in employment and self-employment situations, and to provide assistance to victims of sex discrimination in the same situations.¹

The Directive defines “victims” of discrimination as “all persons, irrespective, for example, of [...] gender, gender identity, gender expression or sex characteristics” who consider that they have experienced sex discrimination in employment or self-employment situations.² This makes clear that trans people have the same protections as all other persons if they are victims of specific forms of sex discrimination in employment or self-employment situations.

The Directive makes clear that the prohibition on sex discrimination also prohibits discrimination arising from gender reassignment. Although the Directive does not say so explicitly, and it has not yet been tested in court, EU case law suggests that this prohibition on discrimination based on gender reassignment (i.e., sex discrimination) can be interpreted broadly, to cover other instances of discrimination based on gender identity.³

Directive (EU) 2024/1499 requires equality bodies to promote equal treatment and protect victims across several different areas of potential discrimination, including: discrimination on the basis of race or ethnicity; employment discrimination on the basis of religion, disability, age, or sexual orientation; and sex discrimination in matters of social security and access to goods and services.⁴

The Directive does not establish specific protections for trans people, or expressly list gender identity, gender expression or sex characteristics within its definition of “victims” of discrimination. However, like Directive (EU) 2024/1500 discussed above, Directive (EU) 2024/1499 also makes clear that the prohibition on sex discrimination prohibits discrimination arising from gender

¹ More specifically, Directive (EU) 2024/1500 lays down minimum requirements for equality bodies to strengthen the principle of equal treatment as derived from Directives 2006/54/EC and 2010/41/EU.

² More precisely, under Directive 2006/54/EC or Directive 2010/41/EU.

³ The Directive, at Recital 5, refers to protection against “discrimination arising from gender reassignment”, which appears to be a relatively restricted term. However, the Directive entered into force in 2024, and recent developments in EU case law (incl. *Deldits* C-247/23, *Shipova* C-43/24, *Commission v Hungary* C-769/22) indicate that the CJEU is likely to interpret “gender reassignment” in this context to mean discrimination arising from gender identity.

⁴ Specifically, Directive (EU) 2024/1499 requires equality bodies to strengthen the application of the principle of equal treatment as derived from Directives 79/7/EEC, 2000/43/EC, 2000/78/EC and 2004/113/EC.

reassignment. Following recent EU case law, discrimination based on gender reassignment (i.e., sex discrimination) can be interpreted broadly to cover other instances of discrimination based on gender identity.⁵

Concretely, this means that an equality body must protect and provide assistance to trans people who have experienced sex discrimination arising from their gender identity in one of the areas covered by equality bodies under the Directive i.e., access to social security, and to goods and services. Trans people who experience discrimination based on another characteristic covered by the Directive — including age, religious belief, disability, or sexual orientation — can seek assistance from equality bodies just like any other victim.

Both Equality Bodies Directives set out substantially the same functions and powers for equality bodies:

Mandate and competences. Each Member State must have one or more independent public agencies tasked with combating discrimination and promoting equal treatment. The core competences of these equality bodies include providing assistance to victims of discrimination, monitoring and reporting on discrimination issues, raising public awareness, and advising on equality policies. They are also empowered to investigate systemic problems and to take part in legal proceedings to enforce anti-discrimination laws. The Directives expressly recognise gender reassignment and gender identity as basis for discrimination.

Independence. To ensure they can act impartially in fighting discrimination, the equality bodies must be strictly independent and free from outside influence. This means equality bodies must operate autonomously, without instructions from any government, organisation or interest group. Member States must use transparent procedures to appoint equality body leadership, and equality bodies must be able to manage their own staff, budget, and operations without interference. These guarantees of independence are meant to build public trust that equality bodies will defend people's rights fairly and effectively, even when addressing discrimination by powerful institutions or individuals.

Resources. Member States must provide equality bodies with enough funding, staffing, and technical capacity so that they can fulfil their duties effectively. This includes ensuring stable, multi-year financial support and necessary infrastructure.

Awareness-raising, prevention, and promotion of equal treatment. Equality bodies must also proactively fight discrimination through public education. This includes undertaking awareness-raising campaigns, especially among vulnerable or less-informed groups, that address people's rights and the work of the equality body itself. Equality bodies are also expected to help prevent discrimination by encouraging the integration of pro-equality policies and measures in workplaces and institutions. This promotional role can involve training employers or public officials, advising organisations on inclusive practices, engaging in public debates, and sharing good practices.

⁵ The Directive, at Recital 5, refers to protection against "discrimination arising from gender reassignment", which appears to be a relatively restricted term. However, the Directive entered into force in 2024, and recent developments in EU case law (incl. *Deldits C-247/23*, *Shipova C-43/24*, *Commission v Hungary C-769/22*) indicate that the European Court of Justice is likely to interpret "gender reassignment" in this context to mean discrimination arising from gender identity.

Assistance to victims of discrimination. A cornerstone of the Directives is ensuring that anyone who experiences discrimination can turn to these bodies for free and effective support. Equality bodies must be equipped to receive complaints from victims and advise them on their rights and available remedies. In practice, this means informing victims about the anti-discrimination laws that apply to their situation, helping them understand how to pursue their case (including judicially) and referring them to other support services (such as psychological help) when needed. The Directives also encourage equality bodies to offer alternative dispute resolution mechanisms like mediation, when an amicable resolution is possible.

Directive 2024/1500 covering equality between women and men in employment explicitly recalls the case law of the CJEU under which discrimination based on “sex” also captures discrimination arising from gender reassignment. Based on more recent CJEU decisions, including the judgment in *Commission v Hungary* (C-769/22), this protection from discrimination would not cover only that arising from gender reassignment but also discrimination based on gender identity more broadly. In any case, Directive 2024/1499 covering all other grounds for discrimination expressly recognises a person who experiences discrimination on the basis of their gender identity as a victim.

Role in policymaking, including providing recommendations and being consulted by public authorities. Equality bodies must regularly provide expert recommendations to public authorities – for instance, by publishing reports on the state of equality and discrimination in their country, including recommendations for improvements. They are also required to prepare annual activity reports and work plans. In turn, Member States must consult their equality bodies on any new measures or decisions related to anti-discrimination or equal treatment policy.

Member States had to transpose both Equality Bodies Directives into national law by 19 June 2026.

Examples

- 1) A trans woman, Lana, is being denied certain opportunities at work that most of her colleagues seem to enjoy. For instance, she has noticed that she is not often taken to client meetings and that her profile is only sporadically included in the team composition for the bids, pitches and other promotional material sent to clients. Lana loves her job and does not want to unnecessarily sour the relationship with her employer. Free and swift assistance from the local equality body could be extremely helpful. The equality body could assist Lana as the potential victim to draw out the relevant facts, provide guidance on how to document these occurrences, provide guidance and assistance in relation to raising these concerns with the employer, and offer mediation and training support.
- 2) A non-binary person, Alex, experiences discrimination related to their gender identity in the context of their employment, such as regarding a promotion opportunity. As such, Alex would fall within the definition of a “victim” under Directive (EU) 2024/1500. Relevant equality body in Alex’s Member State would be obliged to assist them by advising on possible legal remedies, assessing the grounds for pursuing a complaint, acting in court on behalf of Alex or potentially initiating proceedings in their own name in the public interest, and/or offering other forms of support. This may reduce reliance on Alex having to challenge the discrimination themselves and bolster cases where discrimination is systemic or people fear further victimisation.

Pay Transparency Directive

(Directive (EU) 2023/970)

Primary EU law (Article 157(1) TFEU) requires EU Member States to ensure that the principle of equal pay for male and female workers is applied. Yet the gender pay gap in the EU labour market remains significant, at around 11%. Where pay structures lack transparency, it is difficult to identify and address unjustified differences in pay. The Pay Transparency Directive was introduced to make such disparities more visible, require employers to take corrective action, and empower employees to enforce their rights.

The Directive contains several important requirements.

Equal pay for equal work. The Directive requires Member States to ensure that employers have pay structures that ensure equal pay for equal work (or work of equal value). Pay structures must be based on objective, gender-neutral criteria including skills, effort, responsibility and working conditions. Employers cannot pay employees differently based on the sex of those employees.

The Directive uses the term “sex,” rather than “gender” or “gender identity.” However, the Directive explicitly extends the prohibition on pay discrimination based on “sex” to prohibit discrimination based on “gender reassignment”. Recent EU case law suggests that discrimination based on gender reassignment can be interpreted broadly, to cover other instances of discrimination based on gender identity (although the Directive does not say so explicitly, and this has not yet been tested in court).⁶ Concretely, this clearly allows e.g., a trans woman to claim that she is experiencing pay discrimination on the basis that she is being paid less than a cis man doing equal work.

Fundamentally, Member States must ensure that all employees (regardless of gender identity) can assert their right to pay based on objective, gender-neutral criteria, and protection against pay discrimination based on “sex” (i.e., gender identity), including through the courts where necessary.

Intersectional discrimination. For the first time in EU law, Member States are required to recognise and address intersectional discrimination in their national legal frameworks, including in the context of pay discrimination. The Directive allows for claims based on discrimination occurring at the intersection of sex and another protected ground (such as race, religion, disability, age, or sexual orientation), and requires that procedural rules enable such claims to be brought effectively.

The Pay Transparency Directive expressly mentions that discrimination based on sex also covers discrimination arising from gender reassignment. Furthermore, in line with existing EU law and interpretation of CJEU judgements, discrimination based on sex covers not only discrimination

⁶ The Directive, at Recital 5, refers to protection against “discrimination arising from gender reassignment”, which appears to be a relatively restricted term. However, the Directive entered into force in 2023, and subsequent developments in EU case law (incl. *Deldits* C-247/23, *Shipova* C-43/24, *Commission v Hungary* C-769/22) indicate that the European Court of Justice is likely to interpret “gender reassignment” in this context to mean discrimination arising from gender identity.

related to gender reassignment but also discrimination on the basis of gender identity. Trans people, whether they have undergone trans-specific medical interventions or not, are covered under the “sex” ground for the purposes of intersectional claims where it intersects with other protected grounds.

Data collection and reporting. The Directive grants all workers the right to request information about pay, including the initial pay or pay range of a position and average pay levels for categories of workers performing the same work or work of equal value, broken down by sex. Despite trans people being protected against discrimination due to gender reassignment, or more generally on the basis of gender identity following the CJEU’s case law, the Directive itself only requires pay data to be disaggregated by the legal category of sex (women and men), and does not mandate broader gender categories.

This means that non-binary people will generally only be reflected in reporting where their gender is legally recognised or where Member States or employers choose to collect additional categories. In practice, most Member States do not yet recognise non-binary identities in legal frameworks, meaning that their experiences are unlikely to be systematically captured in mandatory reporting.

However, the Directive sets minimum requirements and does not prevent Member States or employers from going further by collecting additional gender-related data, provided this complies with data protection rules, including the GDPR, and relevant national law. Since discrimination related to gender reassignment, and gender identity, is treated as a form of sex discrimination pursuant to EU case law, such additional data collection may support the effective application of equal pay rules, but it is not explicitly required by the Directive.

The Pay Transparency Directive further requires that the accuracy of gender pay gap information is confirmed by the employer’s management, following consultation with workers’ representatives.

Mandate of equality bodies, and monitoring and awareness-raising. The Directive requires that equality bodies should be competent with regard to matters falling within the scope of this Directive (including discrimination based on sex and consequently “gender reassignment” under the Pay Transparency Directive’s own terms, and also “gender identity” more broadly under the CJEU’s case law) and that their powers and mandates should be adequate to fully cover gender-based pay discrimination. This means that equality bodies must be able to address all cases of discrimination that are covered by the Directive itself. Since the Directive explicitly clarifies that discrimination related to gender reassignment falls within the scope of ‘sex discrimination’, equality bodies whose mandate cover ‘sex discrimination’ should be able to assist trans people facing discrimination on that basis.

Compensation. The Directive requires Member States to ensure that their laws provide a right to compensation for pay discrimination, including back pay, missed bonuses and benefits, and compensation that fully restores the worker to the position they would have been in had the discrimination not occurred. A trans worker has the same right to claim compensation as any other worker.

A trans person could assess discrimination by comparing their pay level against all workers (male and female) performing equal work or work of equal value. They would have a discrimination claim if they were paid less compared to either category. For example, the most natural comparator group for trans women might be men where their discrimination claims are rooted in the protected category of “sex” under the Directive. For trans women, a less obvious claim is by reference to other women, though it is still entirely possible: a trans woman could claim discrimination if she is paid less than a cisgender woman performing equal work because she is treated differently on the basis of her gender identity. This is because, pursuant to CJEU case law, gender identity can be argued to be the basis for discrimination under the umbrella of “sex”. For trans men, the key comparator may be other men where discrimination is rooted in his gender identity (the man being trans). A non-binary person may have a discrimination claim under the Directive by reference to either comparator group, men or women, because as noted earlier, gender identity can be argued to be the basis for discrimination.

Penalties. Member States must ensure that employers breaching equal pay and pay transparency rules face effective, proportionate, and dissuasive sanctions, mainly fines but also measures like exclusion from public contracts or loss of funding, for failures such as pay reporting, recruitment transparency, or addressing unjustified gender pay gaps.

Example

Because the Pay Transparency Directive requires that the accuracy of gender pay gap information is confirmed by the employer’s management, following consultation with workers’ representatives, it introduces a review and dialogue mechanism that can be relevant for trans people.

In practice, this means that if a worker identifies inaccuracies in how they are reflected in payroll or reporting data, for example, where a trans woman who has not updated her legal gender marker is recorded as male, she may use the information rights under the Directive to raise concerns about how pay data is categorised and reported. This can prompt review with the employer and workers’ representatives about the accuracy of reporting practices.

Directive on combating violence against women and domestic violence (Directive (EU) 2024/1385)

The EU survey on violence against women found that 31% of women have experienced physical or sexual violence in their lifetime, while half of those who suffered violence from their partner never told anyone. The objective of the Directive on combating violence against women and domestic violence is to reduce the prevalence of such violence in the EU, to protect and support victims, and to ensure the full enjoyment of fundamental rights within the Union, including the right to equal treatment and non-discrimination between women and men.

The Directive addresses several important areas, below.

Criminalises certain forms of violence against women at EU level. The Directive makes specific forms of gender-based violence punishable crimes across all Member States. For instance, female genital mutilation, forced marriage, and several types of cyberviolence including cyber stalking and harassment (such as sending unwanted explicit material), and incitement to violence or hatred online must be criminalised. This closes gaps where certain Member States lacked specific legal provisions ensuring that perpetrators face serious consequences everywhere in the EU and that victims receive equal protection across all jurisdictions. The definition of “victim” in the Directive provides that “the term ‘victim’ should refer to all persons, regardless of their gender who has suffered harm as a result of violence against women or domestic violence”. In this context, and in light of the CJEU case law, the terms “regardless of their gender” should be interpreted as “regardless of their gender identity”. Violence or hatred directed at someone for being a trans woman (or otherwise defying gender norms) must be treated as sex-based violence or hate.

Strengthens victims’ protection and facilitates access to justice. The Directive bolsters measures to make it easier and safer for victims to seek justice by requiring accessible and secure ways to report abuse. This can include online reporting of cyberviolence and the possibility of submitting evidence digitally. Authorities must act quickly to safeguard victims, for example, by issuing emergency restraining or protection orders. The rules call for sensitive handling of investigations, such as limiting the use of a victim’s personal history in court and promptly removing online content such as intimate images posted without consent. The sensitive handling of investigations can be a key feature for trans victims, who may want to ensure that the use of certain private data, such as transition-related information or disclosure of their trans identity, is limited only to circumstances in which it is necessary.

Provides victim support measures. The Directive aims to guarantee better support services for victims by obliging Member States to set up specialist support organisations that provide access to

information, counselling, medical care, and safe accommodation. Support should also be tailored to victims and must reach victims who face additional barriers or discrimination. The Directive provides that in determining victims' protection needs, it must be considered "whether the victim experiences discrimination based on a combination of sex and any other ground [...] referred to in Art. 21 CFR (intersectional discrimination)". "Sex" has to be interpreted broadly to include gender identity in conformity with the CJEU case law and as already confirmed by Recitals 71 and 74 of the Directive.

Requires prevention measures. Member States must take appropriate measures to prevent violence against women and domestic violence, and must take targeted measures for people at heightened risk, including people at risk of intersectional discrimination because of e.g., their gender identity. The prevention strategies that Member States must implement include public awareness campaigns and education programs to address the root causes of gender-based violence and promote a culture of respect and consent. It calls for training of professionals (such as police, judges, health and social workers) so they can recognise warning signs, respond sensitively to victims, and intervene early. The Directive also encourages intervention programmes for perpetrators or those at risk of offending, aiming to prevent repeat violence by making offenders acknowledge and change their behaviour.

Encourages coordination and cooperation among relevant stakeholders. The Directive requires Member States to develop coordinated policies such as designating a national coordinating body and adopting a national action plan to ensure that police, justice officials, health services, social services, and NGOs work together effectively. Multi-agency cooperation is encouraged so victims don't fall through the cracks between services. The Directive also sets data collection and research requirements, so that reliable statistics on violence against women are gathered and shared to inform policy.

Requires that existing higher standards of protection in Member States are not reduced because of the implementation of the Directive. Since the Directive only sets forth minimum standards of protection, it cannot lead any Member State to lower its existing standards when they exceed the Directive. Member States that have implemented stricter laws or more protective measures must keep them.

Requires data collection on violence against women or domestic violence. The Directive requires statistics on violence against women and domestic violence to be disaggregated by sex, age group, and other relevant variables.

Examples

- 1) A trans woman, Natalie, is a victim of violence from her partner on account of his alcohol and substance abuse. Although Natalie's gender identity is a factor that, as acknowledged under recitals 71 and 74 of the Directive, puts her at a heightened risk of intersectional discrimination and violence, the abuse inflicted by her partner was not related to her gender identity. In the context of the criminal investigation, Natalie demands that any details related to her trans identity be kept private as they are not relevant and necessary to the proceedings.
- 2) A trans woman, Akvilė, who is a human rights defender, is a victim of cyber-stalking and cyber-harassment (specifically coordinated bullying and threats of violence), specifically because of her gender. The perpetrators are clearly coordinated, and intend to incite violence or hatred against trans people more broadly. Akvilė's home country must treat this as a crime, subject to minimum prison sentences. It must also treat the fact that the victim is a human rights defender being prosecuted for her gender as an aggravating circumstance. Akvilė's country must also provide legal advice and other necessary support to her.

Implementation of EU Law

Although EU institutions (which adopt EU directives) and Member States (the addressees of EU directives) play the main legal roles, the effectiveness of EU directives rests on the work of multiple actors and stakeholders. The following section provides a simplified overview of how these different participants and stakeholders contribute to transposition and implementation in practice.

- **EU institutions**

Set the legal framework by adopting directives with minimum standards. The European Commission monitors whether Member States correctly transpose them and can initiate infringement procedures.

- **Member States governments or ministries**

Responsible for initiating the transposition of directives into national law. They also allocate resources and report progress to the European Commission.

- **National parliaments**

Adopt and amend national legislation required for transposition.

- **Equality bodies**

Independent national bodies that support enforcement of equal treatment law. They assist victims of discrimination, publish reports, conduct research, and help ensure that equality law is applied in practice, including for trans people.

- **Courts**

Interpret and apply national law in line with EU directives and the primary objectives and principles of EU law from which EU directives are derived. They provide legal remedies in cases of discrimination and ensure that EU rights can be effectively enforced. They can seek input on the interpretation of EU directives from the Court of Justice of the European Union through preliminary references, including on the compatibility of national laws seeking to transpose the directive.

- **Law enforcement authorities**

Investigate and respond to criminal conduct, particularly relevant under the Directive on violence against women and domestic violence. They are responsible for victim protection, case handling, and cooperation with support services.

- **Service providers**

Deliver practical services such as support, shelter, counselling, or reporting mechanisms. They are responsible for ensuring access without discrimination.

- **Trade unions and employers**

Support implementation through collective bargaining, workplace monitoring, and awareness-raising activities, particularly under the Pay Transparency Directive.

- **Civil society organisations**

Support affected people, monitor how laws are implemented in practice, identify implementation gaps, and advocate for stronger enforcement. They often act as a bridge between rights holders and other stakeholders described above.

- **Trans communities**

Within the context of this guide, trans communities are among the beneficiaries of the directives. In line with EU directives, they can access rights under national law and certain rights directly under EU law, such as protection from discrimination or violence, access to information and services, and effective legal remedies. They may report violations to equality bodies or courts and participate in enforcement through complaints or testimony.

Further Resources

The full text of all EU directives mentioned in this publication can be accessed through EUR-Lex, the official database of EU law: <https://eur-lex.europa.eu>

These include:

- Equality Bodies Directives (Directive (EU) 2024/1500 and Directive (EU) 2024/1499)
- Pay Transparency Directive (Directive (EU) 2023/970)
- Directive on combating violence against women and domestic violence (Directive (EU) 2024/1385)
- Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security
- Audiovisual Media Services Directive (Directive 2010/13/EU)
- Goods & Services Directive (Directive 2004/113/EC)
- Employment & Social Security Directive (Recast Directive 2006/54/EC)
- Victims' Rights Directive (Directive 2012/29/EU)
- Qualification Directive (Directive 2011/95/EU)
- Asylum Procedures Directive (Recast Directive 2013/32/EU)

Additional resources

The Trans Rights Revolution – An activist's guide to groundbreaking CJEU cases 2024–2025

TGEU's toolkit gives a short and easy-to-read summary of four important judgments by the Court of Justice of the European Union (CJEU): *Mirin*, *Mousse*, *Deldits*, and *Shipova*, clarifying key rights of trans people under EU law. The toolkit explains what the cases are about, what the CJEU said, what this means for trans people, and how trans activists can use the cases.

Pay Transparency Directive legal analysis

A TGEU detailed legal analysis of the Pay Transparency Directive is available upon request. Please contact policy@tgeu.org to receive a copy.

Human Rights and Gender Identity: Best Practice Catalogue (Safety, Security and Non-discrimination)

This report contains the most recent set of best practices known to TGEU in the areas of safety and security, and non-discrimination, including the work of equality bodies and equal access to employment, education, housing, and goods and services, spanning the last five years.

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