

Interview With Richard Köhler on the EU LGBTIQ Strategy

[article](#), [non-discrimination](#), [lgbti](#)

Original interview in German can be found on the website of the [Gunda Werner Institute of the Heinrich Böll Foundation](#).

[Caroline Ausserer](#) talks to Richard Köhler about the importance of the new EU LGBTIQ Equality Strategy. He is Senior Policy Officer at Transgender Europe (TGEU), the umbrella organisation for the rights of trans people in Europe and Central Asia with a total of 157 member organisations in 47 different countries.

Caroline Ausserer: On 12 November 2020, the European Commission published the first comprehensive LGBTIQ strategy under the title ‘A Union of Equality: Strategy for the Equality of LGBTIQ People 2020-2025’. Equality and non-discrimination are fundamental values and rights in the European Union. Why, then, does the EU need its own LGBTIQ strategy?

Richard Köhler: The EU’s values and rights apply to all people. However, trans people still experience exclusion, discrimination and violence on a daily basis. Whether at school, on the labour market, at the doctor’s or when shopping: More than one in two trans people have experienced discrimination in the last year, according to the EU Fundamental Rights Agency. We are particularly concerned that it affects younger and trans women in particular. Focused efforts, such as the EU LGBTIQ Equality Strategy, are needed to make equality and non-discrimination a reality for all trans people.

Caroline Ausserer: Helena Dalli, the EU Equality Commissioner wants “all people in the European Union to feel safe and free and should not be afraid of discrimination or violence on the grounds of sexual orientation, gender identity, gender expression or sex characteristics”. To what extent can the strategy be supportive in the fight against violence and discrimination across the EU?

Richard Köhler: We know that positive action by the public sector that addresses the situation of trans people can change structures and attitudes in people’s minds in the long term. Ignorance and derogatory attitudes towards gender diversity prepare the ground for hatred and violence against trans people. TGEU has documented 350 murders of trans people worldwide in 2020 for the last 12 months. Of these, eleven people were killed in Europe. Every second person murdered here had a migrant background. That is why it is so important that the EU takes a leadership position and fills the statements of Commission President Ursula von der Leyen with life. She had stated in her “State of the Union” address that the EU must be a safe haven for all, regardless of who you are (gender identity) or who you love (sexual orientation). Linking the LGBTIQ strategy to other EU strategies, such as gender equality, is particularly important to effectively address violence that affects people because of their gender. This includes trans people, who often face full brutality at the borders of a gender binary.

Caroline Ausserer: According to the latest LGBTI survey by the EU Fundamental Values Agency, around 43 per cent of LGBT people said they felt discriminated against in 2019 – up from 37 per cent in 2012. To what extent has the COVID-19 crisis led to new burdens for the most vulnerable groups in society, including LGBTI people?

Richard Köhler: Covid-19 puts a lot of strain on trans people as a particularly vulnerable group. Consistent experiences of discrimination mean that the general health of trans people is worse than that of the general population. They are more likely to have chronic illnesses and avoid going to the doctor for fear of discrimination. Our member organisations report that trans specific health care is often not part of the remaining emergency care. Every second trans person complains about restrictions due to the pandemic. This puts a strain on trans people in addition to the socio-economic problems. Trans people are predominantly employed in the low-wage sector or are often self-employed. We are particularly concerned about trans sex workers and their families who have lost their source of income. Restrictions on living do not only mean that vital social interaction with other trans people or going to counselling centres is not possible or only possible to a limited extent. Especially young or economically weak trans people are often forced to live in close quarters with family members who reject their gender identity. This leads to massive psychological and physical violence.

Caroline Ausserer: Which measures are included in the strategy that you would like to highlight and which are particularly important for trans people? Which measures are missing or which area is not covered?

Richard Köhler: The most important thing about the LGBTIQ strategy is that it takes a holistic view of the work of the EU Commission. Because trans people are not just one-dimensional. Efforts are needed in the labour market, law enforcement, health, public opinion formation and civil society support to improve the situation in a sustainable way. And beyond. It is also important that the EU wants to promote exchanges between member states to improve legal gender recognition. It is an important signal that the Commission is clearly in favour of a right to gender self-determination.

Activities in the area of health are still rather openly formulated. This area is very important for trans people. The WHO has made it clear that gender identity is not a disease. The European Commission should therefore work more with the member states to change mindsets. As a result, we would like to see adequate health care for trans people that values gender diversity and thus also influences the rest of society. We are concerned that the area of asylum is only covered by the strategy to a very limited extent. Of course, improvements in accommodation and raising awareness among decision-makers are important. But the proposal to reform the European asylum system will lead to trans people fleeing violence and hunger not being able to apply for asylum at all.

Caroline Ausserer: A special area of the strategy is the protection of rainbow families. What is the situation in Europe and Germany in this regard and in which area do you see a need for additions?

Richard Köhler: Every fifth trans person in the EU is also a parent, according to the EU Fundamental Rights Agency. This is very encouraging, given a whole range of hurdles and challenges that trans parents and those who want to become parents face. Firstly, trans people in six Member States have to undergo sterilisation and other medical interventions that may affect their fertility as a condition for legal gender recognition. Second, trans people seeking gender reassignment health care lack support to maintain their reproductive capacity. Third, trans people face discrimination in accessing assisted reproductive technology, adoption and care. Fourth, trans parents are rarely recognised in their gender identity – neither in their own documents nor in those of their children. Fifth, trans parents are often forced to divorce and dissolve their families – as a condition for legal gender recognition – and are discriminated against in custody proceedings. Sixth, trans parents live in families that are not legally recognised and are denied rights and protections. Finally, trans parents and their children are harassed and discriminated against because of the parent's gender identity or gender expression.

Families with trans and gender-diverse children also face a variety of problems.

So the situation is complex. That is why it is not enough for the EU Commission to advocate that the parenthood of a rainbow family be recognised not only in one, but in all EU member states. Unfortunately, the EU's competence in this area has been limited so far. We would like to see similar creativity and dynamism here as in the areas of finance or migration to support families with trans relatives.

Caroline Ausserer: The strategy builds on the list of measures to promote LGBTI equality. It is linked to other strategic frameworks and policies of the European Commission, such as the recently adopted EU Action Plan against Racism 2020-2025, the Victims' Rights Strategy and the Gender Equality Strategy. To what extent do you see the claim for an intersectional approach fulfilled in the strategy?

Richard Köhler: The strategy explicitly mentions the intersectional experiences of LGBTI people. This is important and will hopefully also be reflected in the implementation. As already mentioned, close coordination with the field of gender equality is necessary, as according to EU law "gender reassignment" as a protected personal characteristic falls within the field of gender equality.

The experience of our member organisations shows that racism is a constant problem for many trans people of colour. Trans people of colour with a migrant background are particularly affected. Therefore, it is not enough to legally define hate crimes as so-called EU crimes, as the strategy provides. We therefore need measures that clearly name racism as well as trans- or homophobia and support communities that are particularly affected.

Caroline Ausserer: Sexual orientation and gender identity, as well as gender expression, fall under different legal frameworks in the EU: those of anti-discrimination and those of gender equality. Could you please briefly explain the two frameworks? And what protective instruments does the EU offer in this regard?

Richard Köhler: Member states must ensure that no one is discriminated against when implementing EU law. In doing so, the EU pays particular attention to a limited number of protected personal characteristics, such as a person's gender, ethnic origin, religion, political opinion, disability, age or sexual orientation. This is laid down, for example, in the EU Charter of Fundamental Rights (Article 21). Trans people are therefore not included for the time being. However, the European Court of Justice has ruled in various decisions that discrimination on the basis of a person's gender reassignment is not compatible with the EU principle of equality between women and men. The court considered it proven that discrimination based on gender reassignment has its origin in the fact that a person does not live up to the expectations placed on him or her based on the (originally) registered gender. Therefore, trans people are protected in the labour market and in access to goods and services by the EU gender equality law. However, the wording "gender reassignment" is outdated and ambiguous. For example, it is not clear whether non-binary or trans people who do not undergo bodily changes are also protected under this. In other areas, such as asylum or the rights of victims of violence, EU law is more advanced. It explicitly protects people on the basis of their gender identity – and gender expression. That means non-binary and also other trans people without medical measures are covered. We would like to see consistent protection based on gender identity and gender expression in all areas of EU law.

Caroline Ausserer: Civil society organisations that protect and promote the rights of LGBTIQ people are increasingly reporting hostility that coincides with the rise of anti-gender and anti-LGBTIQ movements. How do you explain this unity between yet very different movements? And how worrying do you think the current situation in Europe is?

Richard Köhler: Actors who work against equal rights for women as well as against rights for LGBTI people have been allied in this for a long time. Through the strengthening of populist parties and extreme right-wing positions, they have now also arrived in governments and important institutions. Trans people are a welcome scapegoat. We are very concerned that trans people are increasingly being attacked physically but also in the media. In addition, trans people do not have a strong lobby. That is why the EU LGBTIQ Equality Strategy is so important as a sign that trans people are part of society.

In the summer of 2020, the right-wing government in Hungary passed a law under the guise of Corona measures, making it impossible to change one's gender registration. In the UK, the Conservative government has been only too happy to listen to voices warning against a right to gender self-determination, saying it would undermine women's protection. This is utter nonsense. Countries that have introduced gender self-determination, such as

Malta or Norway, have not found any disadvantages for women. Progressive forces are also uncomfortable with the issue of gender identity; it is too strange and probably too intimate for them. As long as trans people are seen primarily as a case for the health service – either to fix a so-called “gender identity disorder” or, in the milder form, to perform gender reassignment procedures – few will oppose the populists. We need a broad alliance against group-based misanthropy and for diversity.

Caroline Ausserer: Thank you very much for the interview.

Links:

[Union of Equality: LGBTIQ Equality Strategy 2020-2025](#)

[Transgender Europe \(TGEU\)](#)

[Transrespect versus Transphobia Worldwide Project of TGEU](#)

[A long way to go for LGBTI equality. European Union Agency for Fundamental Rights](#)