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Applicants with diverse sexual orientations, gender identities, gender expressions and sex characteristics

Cross-cutting elements



Practical guide on applicants with diverse sexual orientations, gender identities, gender expressions and sex characteristics

Cross-cutting elements

November 2024

On 19 January 2022, the European Asylum Support Office (EASO) became the European Union Agency for Asylum (EUAA). All references to EASO, EASO products and bodies should be understood as references to the EUAA.



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About the guide

Why was this guide created? The mission of the European Union Agency for Asylum (EUAA) is to facilitate and support the activities of EU Member States and the Schengen associated countries (EU+ countries ⁽¹⁾) in the implementation of the Common European Asylum System (CEAS). According to its overall aim to promote a correct and effective implementation of the CEAS and to enable convergence, the EUAA develops common operational standards and indicators, guidelines and practical tools. Among other topics, the EUAA is committed in supporting the EU+ countries in dealing with applicants with diverse sexual orientations, gender identities, gender expressions and sex characteristics (SOGIESC).

How to use this guide. This guide is structured in three standalone yet complementary and interlinked parts, which cover different topics relevant to SOGIESC in asylum.

- **Cross-cutting elements** provides information and guidance that are cross-cutting and relevant to both asylum procedure and reception, including legal framework, safe spaces and inclusive communication, interpretation, information provision, capacity building, cooperation and coordination.
- [Reception](#) provides guidance and practical recommendations on the design and management of reception systems and the provision of reception conditions in a manner that takes into account the special reception needs of LGBTIQ applicants on both an individual and a collective basis.
- [Examination procedure](#) provides practical guidance specifically focused on the key aspects relating to the examination of applications for international protection with SOGIESC-based claims, including the registration, personal interview, evidence and risk assessment as well as the legal analysis.

The guide was developed during the reform process of the CEAS. The instruments of the new Pact on Migration and Asylum entered into force in June 2024 and will enter into application in June 2026. The guide includes references to both legal frameworks, depending on the relevance.

The guide is complemented by an [information note](#) which provides in-depth information on SOGIESC-related concepts and terms.

Who should use this guide? This guide is primarily intended for staff working directly with international protection applicants in asylum: registration officers, case officers and reception staff. Specific sections are also addressed to managers and policymakers. Furthermore, this guide is useful for any other person or organisation working or involved in the field of asylum.

Each of its parts targets slightly different audiences, based on its content and scope.

⁽¹⁾ The 27 EU Member States and Iceland, Liechtenstein, Norway and Switzerland.

- **Cross-cutting elements** primarily targets the whole spectrum of staff in the national authorities. Specific sections marked 'For managers' and/or 'For policymakers' explicitly target those professionals in asylum. It can also be useful to other stakeholders who are involved in asylum (e.g. civil society organisations).
- **Reception** primarily targets reception staff as well as other stakeholders who are involved in or working directly with applicants in reception (e.g. civil society organisations). Specific sections marked 'For managers' and/or 'For policymakers' are explicitly targeting those professionals in the context of reception.
- **Examination procedure** primarily targets registration officers and asylum case officers. Additionally, it is useful for quality officers and legal advisers, as well as policymakers in the national determining authorities and any other person working or involved in the field of international protection in the EU context.

How was this guide developed. This guide was created through a coordinated approach between three EUAA Networks. The development was facilitated and coordinated by the EUAA.

- **Cross-cutting elements** and the **information note**: drafted by experts from asylum and reception authorities, international organisations, civil society organisations and academia, with valuable input from the United Nations High Commissioner for Refugees and ILGA-Europe. Before finalisation, a consultation took place with EU+ countries through the EUAA Vulnerability Experts Network.
- **Reception**: drafted by experts from reception authorities and civil society organisations, with valuable input from the United Nations High Commissioner for Refugees and ILGA-Europe. Before finalisation, a consultation took place with EU+ countries through the EUAA Network of Reception Authorities.
- **Examination procedure**: drafted by experts from across the EU, with valuable input from the European Commission, the United Nations High Commissioner for Refugees, the European Union Agency for Fundamental Rights and the European Council on Refugees and Exiles. Before finalisation, a consultation took place with all EU+ countries through the EUAA Asylum Processes Network.

How does this guide relate to national legislation and practice? This is a soft convergence tool. It is not legally binding and reflects commonly agreed standards as adopted by the EUAA Management Board on 31 October 2024.

How does this guide relate to other EUAA tools? Each of this guide's parts are to be read in conjunction with other available EUAA practical guides and tools.

Cross-cutting elements should be read in conjunction with the *Guidance on Vulnerability in Asylum and Reception: Operational standards and indicators* ⁽²⁾ and the EUAA Let's Speak Asylum Portal ⁽³⁾.

⁽²⁾ EUAA, [Guidance on Vulnerability in Asylum and Reception: Operational standards and indicators](#), May 2024.

⁽³⁾ EUAA [Let's Speak Asylum](#) portal.

[Reception](#) should be read in conjunction with the *Guidance on Reception Conditions* ⁽⁴⁾, the *Guidance on Reception Conditions for Unaccompanied Children* ⁽⁵⁾ and the *Guidance on contingency planning in the context of reception* ⁽⁶⁾. All these guides are complemented by the *Guidance on Vulnerability in Asylum and Reception: Operational standards and indicators* ⁽⁷⁾ as well as the *Guidance on Reception: Operational standards and indicators* ⁽⁸⁾.

[Examination procedure](#) should be read in conjunction with the *Practical Guide on Personal Interview* ⁽⁹⁾, the *Practical Guide on Evidence and Risk Assessment* ⁽¹⁰⁾, the *Practical Guide on Qualification for International Protection* ⁽¹¹⁾, and the *Practical guide on Subsequent Applications* ⁽¹²⁾.

Disclaimer

This guide was prepared without prejudice to the principle that only the Court of Justice of the European Union can give an authoritative interpretation of EU law.

⁽⁴⁾ EASO, [Guidance on Reception Conditions: Operational standards and indicators](#), September 2016.

⁽⁵⁾ EASO, [Guidance on Reception Conditions for Unaccompanied Children: Operational standards and indicators](#), December 2018.

⁽⁶⁾ EASO, [Guidance on contingency planning in the context of reception](#), March 2018.

⁽⁷⁾ EUAA, [Guidance on Vulnerability in Asylum and Reception: Operational standards and indicators](#), May 2024.

⁽⁸⁾ EUAA, [Guidance on Reception: Operational standards and indicators](#), May 2024.

⁽⁹⁾ EASO, [Practical Guide on Personal Interview](#), October 2014.

⁽¹⁰⁾ EUAA, [Practical Guide on Evidence and Risk Assessment](#), January 2024.

⁽¹¹⁾ EASO, [Practical Guide on Qualification for International Protection](#), April 2018.

⁽¹²⁾ EASO, [Practical Guide on Subsequent Applications](#), December 2021.

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Note on terminology

In the guide, the terminology used reflects the current EU asylum *acquis* and applicable international instruments, as well as developments of such terminology, as reflected in doctrine, policy papers, relevant EU strategies, etc.

- The term ‘asylum’ refers to the whole asylum process, including reception.
- The terms ‘asylum procedure’ or ‘asylum procedures’ are used interchangeably.
- The term ‘reception’ refers only to reception.
- The term ‘registration officer’ refers to a member of the staff of national competent authorities, involved in any stage of the registration and lodging of applications for international protection.
- The term ‘case officer’ refers to an official who conducts parts of the procedures in applications for international protection, such as personal interviews and/or other interviews, with applicants for international protection.
- The term ‘reception worker’ refers to a practitioner who is in direct contact with applicants for international protection in a reception context, regardless of whether their employer is a governmental or non-governmental organisation, a private contractor or a local authority. This includes social workers, education and healthcare staff, interpreters, administration or coordination staff, etc.
- The term ‘manager’ refers to staff members of national asylum and reception authorities who are responsible for managing resources and administering groups of staff (e.g. departments, units, etc.). They might also be responsible for developing, approving or monitoring the implementation of operational procedures and workflows.
- The term ‘applicants (or persons) with diverse SOGIESC’ is used interchangeably with the term ‘LGBTIQ applicants’ (or persons).



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Legend

The legend indicates the specific target group for each of the chapters in this part: policymakers, managers and reception workers in the context of reception. Each target group is represented by a distinctive icon for ease of reference to the respective chapter(s).

Icon	Target group	Chapters
	Policymaker	1. Legal framework 2. Intersectionality in asylum 3. Inclusive communication and creating safe spaces 4. Interpretation 5. Information provision, capacity building and awareness raising 6. Cooperation and coordination 7. Data management and statistics
	Manager	1. Legal framework 2. Intersectionality in asylum 3. Inclusive communication and creating safe spaces 4. Interpretation 5. Information provision, capacity building and awareness raising 6. Cooperation and coordination 7. Data management and statistics
	Reception worker	1. Legal framework 2. Intersectionality in asylum 3. Inclusive communication and creating safe spaces 4. Interpretation 5. Information provision, capacity building and awareness raising
	Registration officer	1. Legal framework 3. Inclusive communication and creating safe spaces 4. Interpretation 5. Information provision, capacity building and awareness raising
	Case officer	1. Legal framework 2. Intersectionality in asylum 3. Inclusive communication and creating safe spaces 4. Interpretation 5. Information provision, capacity building and awareness raising



List of abbreviations

Abbreviation	Definition
AMMR	asylum and migration management regulation — Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013
APD (recast)	asylum procedures directive — Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast)
APR	asylum procedures regulation — Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU
Charter	Charter of Fundamental Rights of the European Union
crisis regulation	Regulation (EU) 2024/1359 of the European Parliament and of the Council of 14 May 2024 addressing situations of crisis and force majeure in the field of migration and asylum and amending Regulation (EU) 2021/1147
CEAS	Common European Asylum System
Dublin III regulation	Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)
CJEU	Court of Justice of the European Union
CSO	civil society organisation
EASO	European Asylum Support Office
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU+ countries	Member States of the European Union and associated countries (Iceland, Liechtenstein, Norway and Switzerland)
EUAA	European Union Agency for Asylum



Abbreviation	Definition
GBV	gender based violence
GDPR	general data protection regulation – Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC
IOM	International Organization for Migration
LGBTIQ	lesbian, gay, bisexual, trans, intersex, queer
Member States	EU Member States
SOGIESC	sexual orientations, gender identities, gender expressions and sex characteristics
THB	trafficking in human beings
QR	qualification regulation — Regulation (EU) 2024/1347 of the European Parliament and of the Council of 14 May 2024 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted, amending Council Directive 2003/109/EC and repealing Directive 2011/95/EU of the European Parliament and of the Council)
RCD (2024)	reception conditions directive — Directive (EU) 2024/1346 of the European Parliament and of the Council of 14 May 2024 laying down standards for the reception of applicants for international protection
RCD (recast)	reception conditions directive – Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)
Refugee Convention	The 1951 Convention relating to the status of refugees and its 1967 Protocol (referred to in EU asylum legislation and by the CJEU as ‘the Geneva Convention’)
UDI	Norwegian Directorate of Immigration
UK	United Kingdom
UNHCR	United Nations High Commissioner for Refugees



Introduction

The CEAS and other EU legal instruments afford protection to those applicants who have a well-founded fear of being persecuted because of their sexual orientation, gender identity, gender expression and/or sex characteristics. Furthermore, Member States have been developing and adopting their own legal framework, policies, tools and guidelines on dealing with applicants with diverse SOGIESC in the context of asylum and reception. Nonetheless, it often remains challenging for policymakers, managers and staff working directly with LGBTIQ applicants to identify and appropriately address the specific needs of this group in the asylum context.

This part provides information and guidance on cross-cutting areas of asylum, including the legal framework, information provision, capacity building, interpretation, creating safe spaces, coordination and cooperation as well as data management and statistics. Serving as a source document covering a wide range of cross-cutting issues, this part supports you in developing the fundamental skills that are necessary to understand, assess and better respond to the needs of LGBTIQ applicants and to have a sensitive and professional approach in this context. It further assists authorities and staff in a practical manner in building a SOGIESC-inclusive and respectful asylum system.

This part of the guide covers core elements relating to SOGIESC and is therefore not exhaustive regarding all the issues and practices pertaining to SOGIESC in asylum and reception. For that reason, it should be read in conjunction with each (or both) of the interlinked parts ([reception](#) and [examination procedure](#)) of the same guide, depending on the tasks, role and mandate of each reader within the asylum context.



1. Legal framework



When considering LGBTIQ applicants in asylum, it is important to be familiar with the legal framework that relates to international protection in general and to SOGIESC applications specifically, including main case law.

International protection applications based on SOGIESC fall within the scope of the 1951 Convention relating to the status of refugees and its 1967 Protocol Relating to the Status of Refugees (Refugee Convention) ⁽¹³⁾. The Refugee Convention is the cornerstone of the international legal regime for the protection of refugees.

The international protection guaranteed by the Refugee Convention is complemented by regional legislation and case-law. In the case of EU, this includes the following.

- The Charter of Fundamental Rights of the European Union (the Charter) ⁽¹⁴⁾, especially Article 18, which underpins the development of the CEAS ⁽¹⁵⁾;
- The new Migration Pact, developed by the **EU** to set common standards across the EU+ countries ⁽¹⁶⁾ regarding different aspects of asylum ⁽¹⁷⁾; especially:
 - standards for the reception of applicants for international protection (Directive 2024/1346/EU (RCD 2024) ⁽¹⁸⁾);

⁽¹³⁾ UN General Assembly, [Convention relating to the status of refugees](#), Geneva, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, and [Protocol Relating to the Status of Refugees](#), 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267 (referred to in EU asylum legislation and by the CJEU as ‘the Geneva Convention’).

⁽¹⁴⁾ European Union, [Charter of Fundamental Rights of the European Union](#), 26 October 2012, 2012/C 326/02.

⁽¹⁵⁾ María-Teresa Gil-Bazo, [The Charter of Fundamental Rights of the European Union and the Right to be Granted Asylum in the Union's Law](#), Refugee Survey Quarterly, Vol. 27, Issue 3, 2008, Pages 33–52.

⁽¹⁶⁾ Note that not all EU countries are bound by all the instruments of the new Pact on Migration and Asylum, either in their entirety or regarding specific chapters. Opt-in and opt-out clauses may apply. Similarly, Iceland, Norway and Lichtenstein are bound by specific instruments only or by specific chapters of those instruments. For more information on the derogation and opt-in/out clauses per country, see the section ‘Additional Information’ in the official LEX page of each of the instruments (see fn. 17).

⁽¹⁷⁾ The new Migration Pact will enter into application in June 2026. Until then the CEAS is in application, which includes the following instruments:

- [Directive 2013/33/EU](#) of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), (OJ L 180, 29.6.2013),
- [Directive 2011/95/EU](#) of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011),
- [Directive 2013/32/EU](#) of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), (OJ L 180/60, 29.6.2013) and
- [Regulation \(EU\) No 604/2013](#) of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (OJ L 180, 29.6.2013).

⁽¹⁸⁾ [Directive \(EU\) 2024/1346](#) of the European Parliament and of the Council of 14 May 2024 laying down standards for the reception of applicants for international protection (OJ L 1346, 22.5.2024).



- the qualification of third-country nationals or stateless persons as beneficiaries of international protection (Regulation 2024/1347/EU (QR) ⁽¹⁹⁾);
- the procedures for granting and withdrawing international protection (Regulation 2024/1348) ⁽²⁰⁾);
- Regulation (EU) No 1351/2024 on asylum and migration management, establishing, among other elements, the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (AMMR) ⁽²¹⁾);
- the screening of third-country nationals at the external borders (Regulation 2024/1356/EU ⁽²²⁾);
- Regulation (EU) No 1359/2024 on addressing situations of crisis and force majeure in the field of migration and asylum (crisis regulation) ⁽²³⁾.
- Additional EU legal acts relevant to the rights and entitlements of LGBTIQ applicants in the context of asylum and their rights and entitlements after the declaration of an international protection status, such as Council Directive 2003/86/EC ⁽²⁴⁾.
- The jurisprudence of the Court of Justice of the European Union (CJEU), which ensures that EU law is interpreted and applied consistently in every EU country.
- The jurisprudence of the European Court of Human Rights (ECtHR) developed within the context of the Council of Europe and based on the interpretation and application of the European Convention on Human Rights ⁽²⁵⁾ (ECHR) ⁽²⁶⁾.

⁽¹⁹⁾ [Regulation \(EU\) 2024/1347](#) of the European Parliament and of the Council of 14 May 2024 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted, amending Council Directive 2003/109/EC and repealing Directive 2011/95/EU of the European Parliament and of the Council (OJ L 1347, 22.05.2024).

⁽²⁰⁾ [Regulation \(EU\) 2024/1348](#) of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (OJ L 2024/1348, 22.5.2024).

⁽²¹⁾ [Regulation \(EU\) 2024/1351](#) of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013 (OJ L 1351, 22.5.2024).

⁽²²⁾ [Regulation \(EU\) 2024/1356](#) of the European Parliament and of the Council of 14 May 2024 introducing the screening of third-country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817 (OJ L 1356, 22.5.2024).

⁽²³⁾ [Regulation \(EU\) 2024/1359](#) of the European Parliament and of the Council of 14 May 2024 addressing situations of crisis and force majeure in the field of migration and asylum and amending Regulation (EU) 2021/1147 (OJ L 1359, 22.5.2024).

⁽²⁴⁾ [Council Directive 2003/86/EC](#) of 22 September 2003 on the right to family reunification (OJ L 251, 3.1.2003).

⁽²⁵⁾ Council of Europe, [European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14](#), 4 November 1950, ETS 5.

⁽²⁶⁾ To find out more on relevant case law and jurisprudence, refer to the FRA, [Handbook on European law relating to asylum, borders and immigration – Edition 2020](#), 17 December 2020.



When dealing with persons with diverse SOGIESC in the whole asylum context, remember that general equality and human rights law and guidance also apply, including several provisions of the Charter ⁽²⁷⁾.

The evolution of international protection applications based on SOGIESC

SOGIESC-based applications for international protection started being adjudicated **under the ‘particular social group’ ground** of the Refugee Convention (Article 1A (2)) in the early 1980s ⁽²⁸⁾.

SOGIESC as a basis for applications has progressively been recognised as an international standard, now recognised under Principle 23 of the Yogyakarta Principles ⁽²⁹⁾ and Article 18 Charter. Today, SOGIESC-based applications clearly fall within the scope of international protection.

1.1. EU law and applicants with diverse SOGIESC

Article 24 RCD (2024) includes a non-exhaustive list of categories of applicants for international protection who are more likely as having special reception needs. Lesbian, gay, bisexual, trans and intersex persons are explicitly mentioned as one of those groups of applicants (point f) ⁽³⁰⁾. The individual staff member in reception needs to assess each case individually to identify specific factors that can make an LGBTIQ a person having special

⁽²⁷⁾ For example, the obligation to respect human dignity, as established in Article 1 of the Charter, entails the respect to the right of LGBTIQ applicants in self-identification, including the use of a pronoun of their choice in languages that have gendered personal pronouns. Article 3 also provides for the right to physical and mental integrity, and highlights that the free and informed consent of the person must be respected. This can be of particular importance in relation to trans and intersex applicants. Article 21 (non-discrimination) provides that:

any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.

⁽²⁸⁾ The Netherlands was the first country where this happened, in 1981 (although that particular asylum claim was rejected), followed by other countries in Europe and around the world (see The Netherlands, Council of State [Afdeling Bestuursrechtspraak van de Raad van State], *Applicant v State Secretary for Justice*, D12-51, 13 August 1981. Summary available in the [EUAA Case Law Database](#)).

⁽²⁹⁾ The ‘Yogyakarta Principles’ are a collection of international human rights standards on sexual orientation and gender identity compiled in 2006 by a group of human rights experts. In 2017, the ‘Yogyakarta Principles plus 10 (YP+10)’ were adopted, including Additional Principles and State Obligations, to complement the Yogyakarta Principles and particularly to elaborate on sex characteristics and gender expression. The full text of the Yogyakarta Principles, and of the YP+10 can be found on the official website available at <https://yogyakartaprinciples.org/>.

⁽³⁰⁾ Until the new RCD (2024) is transposed into the national frameworks of the Member States (June 2026), the [Directive 2013/33/EU](#) of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (OJ L 180, 29.6.2013) (RCD recast) remains in force. Article 21 of the RCD (recast) includes a non-exhaustive list of categories of applicants for international protection who must be considered vulnerable persons and therefore may have special reception needs. While LGBTIQ applicants are not explicitly mentioned in that list of categories, this does not exclude the possibility that certain groups of LGBTIQ applicants and/or individual LGBTIQ applicants for international protection are in a situation of vulnerability or have special reception needs. Since the categories of vulnerable persons are not exhaustive, the individual staff member in reception needs to assess each case individually in order to identify specific factors that can make an LGBTIQ applicant vulnerable.



reception needs. ⁽³¹⁾ At the same time, Article 24 provides that applicants will be considered as **‘with special reception needs’** if they have been victims of trafficking in human beings, have serious illnesses or mental disorders, have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence or violence committed with a sexual, **gender**, racist or religious motive. As it is very often the case that these circumstances apply to applicants with diverse SOGIESC, these applicants should be considered as ‘having special reception needs’ in many instances. This will entail identifying and addressing the specific needs of these applicants in reception (consult the [Practical guide on applicants with diverse SOGIESC – Reception](#), Chapter 3. Identification, assessment and response to the needs of applicants with diverse SOGIESC).

The APR refers explicitly to sexual orientation and gender identity. Recital 17 ⁽³²⁾ considers sexual orientation and gender identity as characteristics that may warrant special procedural guarantees and adequate support, including sufficient time to ensure effective access to procedures and to present the elements needed to substantiate one’s international protection application. This has, among others, the following consequences for the personal interview.



Article 13(7), point (a) APR ⁽³³⁾

The person conducting the interview shall:

*(a) be competent to take account of the personal and general circumstances surrounding the application, including the situation prevailing in the applicant’s country of origin, and the applicant’s cultural origin, age, gender, **gender identity, sexual orientation**, vulnerability and special procedural needs ⁽³⁴⁾*

This means that the case officer in asylum should have the professional capacity to deal with cases of applicants of (imputed) diverse SOGIESC, among others, through adequate training and knowledge of and/or access to relevant documents and information (e.g. internal guidelines, country of origin information etc).

Additionally, and as per Article 13(9) APR, wherever possible, asylum authorities shall ensure that the interviewers and interpreters are of the sex that the applicant prefers, unless it has reasons to consider that such a request does not relate to difficulties on the part of the

⁽³¹⁾ Article 21 RCD (recast) includes a non-exhaustive list of categories of applicants for international protection who must be considered vulnerable persons and therefore may have special reception needs. While LGBTIQ applicants are not explicitly mentioned in that list of categories, this does not exclude the possibility that certain groups of LGBTIQ applicants and/or individual LGBTIQ applicants for international protection are in a situation of vulnerability or have special reception needs. Since the categories of vulnerable persons are not exhaustive, the individual staff member in reception needs to assess each case individually in order to identify specific factors that can make an LGBTIQ applicant vulnerable.

⁽³²⁾ Recital 29 APD (recast) respectively.

⁽³³⁾ Article 15(3), point (a) APD (recast) respectively.

⁽³⁴⁾ Emphasis added.



applicant to present the grounds of his or her application in a comprehensive manner ⁽³⁵⁾. Consult the [Practical guide on applicants with diverse SOGIESC – Examination procedure](#), Chapter 2. Special Procedural Guarantees and applicants with diverse SOGIESC).

The QR includes both sexual orientation and gender identity as characteristics that may constitute a basis to identify a particular social group.



Article 10(1), point (e) second subparagraph QR ⁽³⁶⁾

Depending on the circumstances in the country of origin, the concept of membership of a particular social group as referred to in point (d) of the first subparagraph shall include membership of a group based on a common characteristic of sexual orientation. Gender related aspects, including gender identity and gender expression, shall be given due consideration for the purposes of determining membership of a particular social group or identifying a characteristic of such a group ⁽³⁷⁾



Related EUAA publications

For further guidance on the elements and aspects regarding the qualification of third-country nationals or stateless persons as beneficiaries of international protection, refer to:

- EASO, [Practical Guide: Qualification for international protection](#), 2018.
- EASO, [Guidance on Membership of a Particular Social Group](#), 2020.

In Part III of the AMMR ⁽³⁸⁾, the criteria and mechanisms for determining the Member State responsible to examine an application are set out in a hierarchical order. It also contains procedural safeguards for unaccompanied children and provisions to uphold family unity. Articles 25-28 of the regulation contain criteria for determining the Member State responsible for core family members (as defined in Article 2(8)).

In addition, a Member State may ask another one to examine an application to bring together other family members (Article 35(2), ‘humanitarian clause’). LGBTIQ applicants are no exception to those rules and criteria (recitals 48, 51, 54 and Articles 26-28). Therefore, when it

⁽³⁵⁾ Note that Article 15(3), point (b) APD (recast) includes a different provision in relation to the sex of the interviewer and the interpreter: ‘wherever possible [Member States shall] provide for the interview with the applicant to be conducted by a person of the same sex if the applicant so requests’.

⁽³⁶⁾ Article 10(1), point (d) second subparagraph of [Directive 2011/95/EU](#) of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011).

⁽³⁷⁾ Emphasis added.

⁽³⁸⁾ Respectively, Articles 8–11 and 16 Dublin III Regulation contain criteria for determining the Member State responsible for core family members (as defined in Article 2(g)). In addition, a Member State may ask another one to examine an application in order to bring together other family members (Article 17(2) ‘humanitarian clause’). LGBTIQ applicants are no exception to those rules and criteria (see recitals 14–16 and Articles 8–11).



comes to spouses or unmarried partners in a stable relationship, Member States are to treat same-sex partners or spouses in the same way as they treat different-sex partners or spouses, in order to implement the regulation in accordance with fundamental rights, especially with the right to respect for private and family life, the principle of non-discrimination, the rights of the child and the right to an effective remedy, as enshrined in the ECHR (recitals 14–16) and the Charter (Articles 8–11).



The Netherlands, Council of State, Ruling 202003555/1 /V3 ⁽³⁹⁾

With this decision, the Dutch Council of State highlighted the importance of inquiring into the sustainability of the same-sex relationship.

The applicant, a female Russian national, entered the Netherlands with a Finnish Schengen visa together with her children and her female partner, where they all applied for international protection. The Secretary of State did not take her application into consideration claiming that Finland would be responsible. In addition, the Secretary of State claimed that the applicant did not demonstrate that she was in a stable relationship with her partner. The applicant then argued that the Secretary of State should have further investigated her relationship and that the District Court of the Hague has also misjudged and therefore incorrectly applied Article 7(3) Dublin III regulation.

More precisely, according to the Council of State, the District Court erroneously judged that the Secretary of State had correctly considered her partner as not being a family member. As to the question of whether there is a stable relationship within the meaning of the Dublin III regulation, the Council of State ruled that this must also be seen in the light of the circumstances in which the applicant was able to give substance to her relationship in their country of origin. Considering the circumstances presented by the applicant as well as the difficult situation of LGBTIQ people in Russia, the Secretary of State should have investigated further regarding the sustainability of the applicant's relationship with her partner.

The Council of State upheld the appeal and annulled the judgement of the District Court as well as the decision of the Secretary of State.

The new Regulation 2024/1356/EU ⁽⁴⁰⁾ includes several provisions on persons 'with special needs', which might refer to LGBTIQ persons as well. Recital 7 provides that 'the screening of third-country nationals who apply for international protection, should (...) also contribute to identifying vulnerable persons so that any special needs are fully taken into account in the determination of and the pursuit of the applicable procedure'. Furthermore, the same regulation introduces a preliminary vulnerability check, which 'should be carried out with a view to identifying persons with indications of being vulnerable, of being victims of torture or

⁽³⁹⁾ The Netherlands, Council of State, [Ruling 202003555/1 /V3](#), September 2020, available in Dutch.

⁽⁴⁰⁾ [Regulation \(EU\) 2024/1356](#) of the European Parliament and of the Council of 14 May 2024 introducing the screening of third-country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817 (OJ L 1356, 22.5.2024).



other inhuman or degrading treatment, or of being stateless, or who may have special reception or procedural needs' (recital 37).

The new crisis regulation ⁽⁴¹⁾ includes SOGIESC as characteristic for Member States to specifically consider for relocation.



recital 37 crisis regulation

*Vulnerable persons should be given primary consideration for relocation, in particular when they have special reception needs within the meaning of Article 24 [RCD (2024)] or are in need of special procedural guarantees as referred to in Articles 20 to 23 of [APR]. According to Article 24 of [RCD (2024)], applicants falling within any of the following categories are more likely to have special reception needs: minors, unaccompanied minors, persons with disabilities, elderly persons, pregnant women, **lesbian, gay, bisexual, trans and intersex persons**, single parents with minor children, victims of trafficking in human beings, persons with serious illnesses, persons with mental disorders including post traumatic stress disorder and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of gender-based violence, of female genital mutilation, of child or forced marriage, or violence committed with a sexual, **gender**, racist or religious motive. ⁽⁴²⁾*

The same regulation also provides that in situations of crisis or *force majeure*, the examination of applications from persons with special procedural needs and/or with special reception needs should be prioritised (recital 41) as well as that the same categories of persons shall be excluded from the border procedure (Article 11(5)).

1.1.1. Applicants with SOGIESC-based claims as members of a particular social group

LGBTIQ applicants have been historically regarded as having a characteristic or an identity that is either unchangeable or so fundamental to human dignity that change should not be compelled. This element is directly linked to the notion of a particular social group.

The QR stipulates specific characteristics that a group must have to be considered a particular social group.

⁽⁴¹⁾ [Regulation \(EU\) 2024/1359](#) of the European Parliament and of the Council of 14 May 2024 addressing situations of crisis and force majeure in the field of migration and asylum and amending Regulation (EU) 2021/1147 (OJ L 1359, 22.5.2024).

⁽⁴²⁾ Emphasis added.



Article 10(1), point (d) QR – Reasons for persecution

A group shall be considered to form a particular social group where in particular: ... members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society.

Article 10(1), point (d) QR ⁽⁴³⁾ defines a particular social group by two elements, namely ‘fundamental characteristic’ and ‘social perception’. In Cases C-199/12 to C-201/12 (*X, Y and Z*) ⁽⁴⁴⁾ and C-621/21 ⁽⁴⁵⁾, the CJEU interpreted these criteria as having to be applied cumulatively. The cumulative approach means that both the criteria outlined above, respectively ‘fundamental characteristic’ and ‘social perception’ need to be met. In other words, it is not sufficient to establish that the group share certain (fundamental) characteristics or background or beliefs. At the level of the group, this must also be visible for others so that the group is identified as being different.

Note on UNHCR’s approach

In this context, it is worth noting that the United Nations High Commissioner for Refugees (UNHCR) ⁽⁴⁶⁾ does not apply a ‘cumulative approach’. UNHCR lays down the concept of particular social group pointing out that these tests are not cumulative but alternative ⁽⁴⁷⁾.

⁽⁴³⁾ The same definition is provided in Article 10(1), point (d) of [Directive 2011/95/EU](#) of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) (OJ L 337, 20.12.2011).

⁽⁴⁴⁾ CJEU, judgment of 7 November 2013, [Minister voor Immigratie en Asiel v X and Y and Z](#), Joined Cases C199/12 to C201/12, EU:C:2013:720. Summary available in the [EUAA Case Law Database](#).

⁽⁴⁵⁾ CJEU, judgment of 16 January 2024, [WS v Intervyuirasht organ na Darzhavna agentsia za bezhantsite pri Ministerskia savet](#), Case C-621/21, EU:C:2024:47. Summary available in the [EUAA Case Law Database](#).

⁽⁴⁶⁾ UNHCR, [Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees](#), 2012, paragraph 45.

⁽⁴⁷⁾ On a similar note, the International Commission of Jurists has also stated that Article 10 of the original QD could be interpreted as entailing an alternative approach, not necessarily a cumulative approach (see [X, Y and Z: a glass half full for ‘rainbow refugees’? The International Commission of Jurists’ observations on the judgment of the Court of Justice of the European Union in X, Y and Z v. Minister voor Immigratie en Asiel](#), 3 June 2014, 3 June 2014, pp. 11-12).

UNHCR, *Guidelines on International Protection No. 9* ⁽⁴⁸⁾

UNHCR interprets the concept of particular social group as follows.

A particular social group is a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience or the exercise of one's human rights.

The CJEU's judgement in *X, Y and Z* constitutes a ground-breaking decision on issues related to the examination and assessment of SOGIESC-based claims regarding SOGIESC-related jurisprudence at the EU level.

**CJEU, 2013, *X, Y, and Z* ⁽⁴⁹⁾**

This joined case concerns three gay male asylum applicants in the Netherlands from Sierra Leone, Uganda and Senegal respectively. In each country of origin, homosexuality is a criminal offence punishable by imprisonment. Their applications were rejected on the national level on the basis that the applicants had not demonstrated a well-founded fear of persecution on account of their sexual orientation. The Dutch Council of State then referred questions to the CJEU for preliminary ruling.

The CJEU determined that:

- The existence of criminal laws targeting homosexuals supports the finding that those persons form or belong to a particular social group for the purposes of the Refugee Convention.
- Although the existence of such criminal laws does not constitute persecution in itself, a term of imprisonment which sanctions homosexual acts and which is actually applied in the country of origin that adopted such legislation must be regarded as being a punishment which is disproportionate or discriminatory and thus constitutes an act of persecution.
- Asylum authorities cannot reasonably expect that applicants conceal their sexual orientation in their country of origin or exercise reserve in the expression of their sexual orientation to avoid the risk of persecution.

⁽⁴⁸⁾ UNHCR, [*Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A\(2\) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*](#), 2012.



For guidance on the legal analysis of SOGIESC-based claims including the reasons for persecution, consult the [Practical guide on applicants with diverse SOGIESC – Examination procedure](#), Chapter 7. Legal analysis.



Related EUAA publication

For further guidance on applying the notion of membership of a particular social group, see EASO, [Guidance on Membership of a Particular Social Group](#), 2020.

1.1.2. Evidence in SOGIESC-based claims

In its judgement in Case C-148/13 (*A, B and C*)⁽⁵⁰⁾, the CJEU stated that:

- Sexual self-identification is not determinative. The declared sexual orientation thus ‘constitute[s], having regard to the particular context in which the applications for asylum are made, merely the starting point in the process of assessment of the facts and circumstances’.
- The use of evidence that shows sexual or intimate activities or the use of stereotyped assessments in SOGIESC-based applications (including medical tests such as phallometric testing and explanation of sexual practices) is prohibited. Such evidence violates the dignity and privacy of the claimants, based on Articles 1 and 7 Charter.
- Delays in disclosing one’s sexuality should not as such be held against the applicant to harm their credibility (paragraphs 69-71).

Moreover, under Article 10(2) QR when assessing if an applicant has a well-founded fear of being persecuted, it is irrelevant whether they actually possess the characteristic which causes or generates the persecution, provided that such a characteristic is attributed to them by the actor of persecution.

In its judgement in Case C-473/16 (*F. v Bevándorlási és Állampolgársági Hivatal*)⁽⁵¹⁾, the CJEU added that expert reports, such as projective personality tests, should be precluded in SOGIESC-based applications on the basis of Article 7 Charter (on the right to respect for private and family life) and Principle 18 of the Yogyakarta Principles⁽⁵²⁾ (protecting individuals from medical abuses based on sexual orientation or gender identity).

For guidance on evidence and risk assessment in SOGIESC-based claims, consult the [Practical guide on applicants with diverse SOGIESC – Examination procedure](#), Chapters 5. Evidence assessment and 6. Risk assessment.

⁽⁵⁰⁾ CJEU, judgment of 2 December 2014, *A, B and C*, C-148/13, EU:C:2014:2406. Summary available in the [EUAA Case Law Database](#).

⁽⁵¹⁾ CJEU, judgment of 25 January 2018, *F. v Bevándorlási és Állampolgársági Hivatal*, C-473/16, EU:C:2018:36. Summary available in the [EUAA Case Law Database](#).

⁽⁵²⁾ The Yogyakarta Principles and the Yogyakarta Principles +10, 10 November 2017, available at: <http://yogyakartaprinciples.org/>



1.2. The European Court of Human Rights and asylum

The European Court of Human Rights (ECtHR) is an institution of the **Council of Europe** responsible for interpreting and applying the European Convention on Human Rights ⁽⁵³⁾ (ECHR) as well as adjudicating on states' violations of the Convention. All EU+ countries have signed and ratified the ECHR.

In its 2013 judgement No 72413/10 (*M.K.N. v Sweden*) ⁽⁵⁴⁾, the ECtHR recognised for the first time that applications based on sexual orientation fall within the remit of the ECHR, particularly Article 3.

Later, in its 2017 judgement No 21417/17 (*I.K. v Switzerland*) ⁽⁵⁵⁾, the ECtHR asserted that:

- sexual orientation is a fundamental part of a person's identity;
- the assessment of the credibility of SOGIESC-based applications needs to be carried out in a sensitive manner;
- 'discretion reasoning' in asylum claims is inappropriate, so it does not matter whether applicants with SOGIESC-based applications would act 'discreetly' or not upon returning to their countries of origin (paragraph 24).

Furthermore, in its judgement Nos 43987/16 and 889/19 (*B and C v Switzerland*) ⁽⁵⁶⁾, the ECtHR ruled that the risk against an applicant with (imputed) diverse SOGIESC may come from non-state actors (including, but not limited to, family members) but also from state actors, as in the case of actively applied legislation criminalising and punishing same-sex relations.

In the judgement No 9912/15 (*O.M. v Hungary*) ⁽⁵⁷⁾, which involved a third-country national who fled his country of origin due to his homosexuality and was subsequently detained in Hungary, the Court emphasised that 'authorities should exercise particular care in order to avoid situations which may reproduce the plight that forced these persons to flee in the first place.' ⁽⁵⁸⁾

⁽⁵³⁾ Council of Europe, [European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14](#), 4 November 1950, ETS 5.

⁽⁵⁴⁾ ECtHR, judgment of 9 December 2013, [M.K.N. v Sweden](#), No 72413/10, ECLI:CE:ECHR:2013:0627JUD007241310.

⁽⁵⁵⁾ ECtHR, judgment of 19 December 2017, [I.K. v Switzerland](#), No 21417/17, ECLI:CE:ECHR:2017:1219DEC002141717. Summary available in the [EUAA Case Law Database](#). The applicant claimed asylum in Switzerland in 2012 on the grounds of being persecuted in his country of origin on account of his homosexuality. His claim was rejected on the national level on the basis that his declarations were contradictory, and the evidence provided was insufficient to demonstrate either his membership to a LGBTIQ group, or an alleged previous arrest on the grounds of his homosexuality.

⁽⁵⁶⁾ Council of Europe, ECtHR, [B \(Gambia\) and C \(Switzerland\) v Switzerland](#), Nos 43987/16 and 889/19, ECLI:CE:ECHR:2020:1117JUD000088919, 17 November 2020. Summary available at the [EUAA Case Law Database](#).

⁽⁵⁷⁾ ECtHR, judgment of 5 July 2016, [O.M. v. Hungary](#), No 9912/15, ECLI:CE:ECHR:2016:0705JUD000991215. Summary available in the [EUAA Case Law Database](#).

⁽⁵⁸⁾ For more information on the ECtHR jurisprudence on SOGIESC-related asylum applications, see UCL Press, [Queer Migration and Asylum in Europe](#), edited by Mole R.C.M., 2021, chapter 5 and ECtHR, [Guide on the case-law of the European Convention on Human Rights: Rights of LGBTI persons](#), 2022.



Relevant jurisprudence

In the EUAA Case Law Database, you may find a variety of decisions and judgements by EU+ national courts in relation to diverse SOGIESC in asylum ⁽⁵⁹⁾.



Case-law: key points to remember

- National decisions on applications must respect EU law and the CJEU jurisprudence. Similarly, they must be in line with the ECHR and the ECtHR jurisprudence.
- With their rulings, the CJEU and the ECtHR have clarified the following aspects.
 - No one may be expected to conceal their sexual orientation to avoid persecution.
 - Individuals may also be persecuted based on a perceived or attributed (not real) SOGIESC. Therefore, to adjudicate on an application for international protection based on a fear of persecution on grounds of sexual orientation or gender identity, it is not always necessary to assess the credibility of the applicant's sexual orientation.
 - Asylum claims cannot be assessed through questions based only on stereotyped notions concerning SOGIESC or by investigating the sexual practices of the applicant.

⁽⁵⁹⁾ EUAA, [Case Law database](#).



2. Intersectionality in asylum



Originally coined by the American critical race scholar and civil rights activist Dr Kimberlé Crenshaw in 1989, the term ‘intersectionality’ is defined as ‘a way of thinking about identity and its relationship to power’ ⁽⁶⁰⁾. It refers to the various ways social identities overlap and intersect with each other.

An individual’s diversity characteristics may overlap and intersect with each another in a way that is fostering bias and therefore creating layers of marginalization, discrimination or abuse ⁽⁶¹⁾.

When it comes to asylum, an LGBTIQ applicant may have multiple, intersecting identities and/or needs, which might be relevant to their asylum examination and/or the reception process. For example, they may be a member of an ethnic minority, a victim of violence, abuse or exploitation, a child, have a disability and, at the same time, have a non-conforming SOGIESC. In such a case, intersectionality is a way of understanding the complexity of the applicant’s identity instead of simply labelling them as an ‘LGBTIQ applicant’. It allows for a more comprehensive understanding of this individual’s situation, taking into account the various experiences and identities that make up their life.

The different needs and challenges of the various groups of persons falling under the umbrella term of LGBTIQ should be taken into serious consideration, as the particular needs of each group might intersect differently with other identities and characteristics. They therefore enhance the risk of inequalities, exposure to violence, discrimination and often persecution ⁽⁶²⁾.

An intersectional lens is required when working with or for LGBTIQ applicants to achieve:

- more inclusive and responsive policymaking and the comprehensive and fair provision of services that does not leave LGBTIQ applicants behind;
- better use of resources: improved stakeholder collaboration builds a better understanding of the context, helps achieve solutions and results in more tailored services when catering for the specific needs of LGBTIQ applicants.

For more information on the most prevalent intersecting identities and needs of LGBTIQ applicants, consult the [Practical guide on applicants with diverse SOGIESC – Information note](#), Section 2.2. Intersectionality in asylum.

⁽⁶⁰⁾ Kimberlé Crenshaw, ‘[Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics](#)’, University of Chicago Legal Forum, Vol. 1989, Issue 1, Article 8.

⁽⁶¹⁾ See also UNHCR-IOM, [Foundation Topics - Workbook, Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics \(SOGIESC\) in Forced Displacement and Migration](#), September 2021, p. 8.

⁽⁶²⁾ For instance, according to the EQUINOX-ILGA Europe, [Intersections, Diving into the FRA LGBTI II Survey Data Migrant and Racial, Ethnic and Religious Minorities Briefing](#), 2023, it is evident that LGBTI migrants from outside the EU who have intersecting needs and identities face various forms of discrimination. While looking for work, 10.65% of them experience discrimination, with the likelihood increasing to 21.89% if they have a disability, 36.31% if they are trans, 26.78% if they are intersex, 26.32% if they are non-binary, and a strikingly high 41.33% or 46.57% if they are trans men or trans women, respectively.



Recommendations for staff working directly with applicants

- Systematically consult applicants of diverse groups and of various identities and characteristics (e.g. age, gender, ability), both collectively and individually, to hear and learn about their particular concerns and needs.
- Be mindful of non-visible and intersecting needs and identities when interacting with an applicant (including LGBTIQ) and remain aware of the various factors and circumstances that compose their life experiences.
- Do not always trust family members, friends or acquaintances of LGBTIQ applicants without a prior assessment of their relationship and interests. Most perpetrators of violence and trafficking come from the victim's close environment.
- Strengthen your knowledge and awareness on issues pertaining to the risks and challenges faced by children and youth in displacement, with a special focus on those with diverse SOGIESC ⁽⁶³⁾.
- Strengthen your knowledge and awareness of THB, including the regulatory framework at EU and national level as well as its impact and consequences for the victims and their rights ⁽⁶⁴⁾. Similarly, enhance your awareness of the standardised workflows and procedures ⁽⁶⁵⁾ that may apply in your work context to regulate the procedures for prevention, identification, response and/or protection of THB victims. Know your country's national hotline(s) for reporting cases of THB ⁽⁶⁶⁾.
- Strengthen your knowledge and awareness about standardised workflows and procedures ⁽⁶⁷⁾ that may apply in your work context in relation to the identification, assessment and response to the special needs and vulnerabilities of LGBTIQ applicants, including best interest procedures and the right of unaccompanied children to a legal representative.
- Organise and facilitate information sessions and awareness-raising sessions on topics related to special needs (including THB, gender, diverse SOGIESC and the right to be free from violence), addressing all applicants in a culture- and age-appropriate manner.
- Be alert to signs and indicators that may imply that the LGBTIQ applicants you work with, interview or generally interact with might be victims of gender-based violence (GBV), THB or torture ⁽⁶⁸⁾.

⁽⁶³⁾ For more information on those topics, refer to FRA, [Children in migration in 2019](#), 2020. Self-learning online courses on children in displacement are also available from [Disaster Ready](#).

⁽⁶⁴⁾ Additional information, facts and trends on THB as well as country-specific information and resources are available on the dedicated webpage of the European Commission, " and on the dedicated webpage of the UN Office on Drugs and Crime, '[Human Trafficking](#)'.

⁽⁶⁵⁾ Examples of such procedures are standard operating procedures, guidelines, working instructions, circulars.

⁽⁶⁶⁾ A list of national hotlines can be found on the dedicated webpage of the European Commission, 'National Hotlines', 8 May 2024.

⁽⁶⁷⁾ Examples of such procedures are working guidelines, user manuals, standard operating procedures, circulars.

⁽⁶⁸⁾ For THB signs and indicators, refer to UNODC, [Human Trafficking Indicators](#) and EUAA, [Identification of Persons with Special Needs Tool](#), 2016.

- Enhance your skills and practical knowledge by attending training courses focusing on special needs and vulnerabilities ⁽⁶⁹⁾.
- Maintain updated contact lists of national or regional authorities or other relevant organisations (e.g. civil society organisations (CSOs)) to contact when you identify an LGBTIQ applicant who has intersecting needs and identities. Be sure to make a safe and timely referral to the right entity, depending on the person's needs and wishes and upon their consent.
- Consult and cooperate with other authorities and CSOs that work on these issues to learn more about their work and the challenges faced by the people they assist. Seek their advice on how you can improve your work and adopt an inclusive approach for all identities and needs.

For detailed guidance on how to identify and respond to special needs and intersecting specific needs during the various stages of the examination of asylum applications, consult the [Practical guide on applicants with diverse SOGIESC – Examination procedure](#), Chapter 2. Special procedural guarantees and in reception, refer to the [Practical guide on applicants with diverse SOGIESC – Reception](#), Chapter 3. Identification, assessment and response to the needs of applicants with diverse SOGIESC.



Recommendations for managers and policymakers

- Make sure that the internal policies of your authority protect and support persons with diverse and intersecting characteristics and/or identities, while also enhancing their full participation. This includes recruiting persons with diverse characteristics (e.g. persons with disability, belonging to an ethnic minority or with a refugee background), ensuring accessibility for disabled persons, as well as having a code of conduct in place with an effective reporting mechanism and a sanctioning framework in case of violations.
- Develop and disseminate internal, operational workflows and procedures ⁽⁷⁰⁾ on the identification, assessment and response to special needs and vulnerabilities, including specific considerations on the needs of LGBTIQ applicants. Ensure that staff working directly with applicants are informed, trained and apply these procedures in their everyday work.
- Ensure that staff under your supervision/competence are properly trained (including refresher courses) on the special needs and vulnerabilities of applicants in the asylum context (e.g. children, victims of THB, GBV or torture), including

⁽⁶⁹⁾ The EUAA has developed a training module on vulnerabilities and special needs, including children, victims of THB, GBV, etc. targeting staff from national authorities who work in direct contact with applicants. Additionally, the Council of Europe has developed an online [training course](#) on THB that is publicly available. Similarly, the Inter-Agency Standing Committee (IASC) has developed extensive [training material](#) on GBV, including core elements and how to prevent and respond to GBV acts.

⁽⁷⁰⁾ Examples of such procedures are standard operating procedures working instructions, guidelines and circulars.



Recommendations for managers and policymakers

considerations on the specific situation and needs of LGBTIQ applicants ⁽⁷¹⁾. Help your staff to overcome and address their bias by sensitising them and encouraging their continuous training and professional development on elements relating to SOGIESC and other intersecting needs and identities (consult the [Practical guide on applicants with diverse SOGIESC – Information note](#), Section 2.1. Norms and biases).

- Where feasible and applicable, ensure that health and mental health providers receive specialised training on SOGIESC. This should include topics such as understanding the specific needs of LGBTIQ applicants in the healthcare system, being respectful and culturally competent, being aware of trans/intersex-specific health needs and addressing homo/bi/trans/intersexphobia in healthcare settings.
- Promote and ensure the integration and implementation into your national context and practice of acknowledged and effective tools on identifying and addressing specific needs and vulnerabilities, such as the Istanbul Protocol ⁽⁷²⁾.
- Develop and implement policies, activities and programmes which promote safe access to labour and vocational opportunities for all, without discrimination and with a special focus on the integration and support of LGBTIQ applicants in accessing their rights and livelihood opportunities.
- Create safe spaces for LGBTIQ applicants: this can help ensure that they feel supported and can access the services they need. This can include providing resources on LGBTIQ rights, creating social support groups and providing educational programmes on LGBTIQ health and mental health. Additionally, providing access to LGBTIQ-specialised organisations and services can help create an atmosphere of acceptance and inclusion. For more information on creating safe spaces, see Chapter [3. Inclusive communication and creating safe spaces](#).
- Develop and disseminate appropriate information material (leaflets, videos, posters, etc.) in different languages to raise awareness on the rights and entitlements of LGBTIQ applicants, including specific considerations on the risks and impact of GBV and THB ⁽⁷³⁾.
- Strengthen your cooperation and coordination with national authorities and other relevant organisations (e.g. CSOs) working on these issues to learn more about their work and on the challenges faced by the people they assist or work for. See also Chapter [6. Cooperation and coordination](#).
- Search for good practices and initiatives already applied in other countries and contexts regarding working with applicants with special needs and intersecting

⁽⁷¹⁾ The EUAA has developed and delivers various training modules targeting staff working for national authorities who are in direct contact with the applicants.

⁽⁷²⁾ OHCHR, [Istanbul Protocol – Manual of the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#), 2022.

⁽⁷³⁾ More guidance and advice on developing information material can be found on the EUAA, [Let's Speak Asylum](#) portal, July 2023.



Recommendations for managers and policymakers

identities and needs. Strive to adopt or implement such good practices, partially or in full, in your own area of responsibility.





3. Inclusive communication and creating safe spaces



Every LGBTIQ applicant has their own special needs, characteristics, experiences and life story. Many of them have experienced exclusion, discrimination, invisibility or even persecution in the country of origin or even in the country of asylum. Therefore, it is very important to communicate appropriately with them in all interactions. This is to avoid causing harm, trauma (or re-traumatisation) and to ensure that the intended message is correctly conveyed. Similarly, all applicants should be able, comfortable and confident to open up and discuss their concerns and sensitive issues without the fear of confidentiality breaches or of receiving negative treatment while seeking assistance.

When referring to LGBTIQ applicants, inclusive communication means a form of communication that is free from any prejudice, criticism or discrimination and is respectful of the individual's SOGIESC. Additionally, it is important to use language that is affirming and positive, such as using the person's preferred name and pronouns and using language that is respectful and non-offensive.

As staff working in asylum and reception, you should always be prepared and ready to adjust your communication style and use different techniques to create an inclusive environment where applicants can safely share their personal stories as well as their needs and challenges. When it comes to persons with diverse SOGIESC, this type of safe, confidential, respectful and inclusive space is also called 'LGBTIQ safe space'.

3.1. Creating safes spaces

Safe spaces are areas in which applicants with potentially special needs feel accepted, respected and supported, regardless of their differences. They can be physical, virtual or social spaces created through inclusive communication practices that foster an environment of acceptance and understanding. This could include active listening, open dialogue and the use of language and visuals that are respectful and welcoming. In an environment of trust, LGBTIQ applicants feel comfortable being themselves and sharing their experiences without fear of judgement or criticism.

In your continuous efforts to create and maintain safe spaces, it is important to adopt and be driven by specific qualities and attitudes when interacting with applicants, including the following points.

- **Empathy:** make an effort to understand someone else's feelings or experiences by imagining what it would be like to be in that person's situation. Manifestations of empathy and a human approach in interacting with applicants are important elements towards building an environment of trust and connection with all applicants, including and especially LGBTIQ persons.



- **Openness:** be receptive and open to new ideas and experiences, including hearing other people's stories with a genuine interest. This ability is also related to overcoming personal and unconscious biases (consult the [Practical guide on applicants with diverse SOGIESC – Information note](#), Section 2.1. Norms and biases).
- **Active listening:** go beyond simply hearing the words that another person utters and seek to understand the meaning and intent behind them. Concrete examples of active listening may include being fully present in the conversation; showing interest by practicing eye contact; nodding or noticing/using non-verbal cues; asking open-ended questions to encourage further responses; paraphrasing and repeating back what has been said; and listening to understand rather than to reply ⁽⁷⁴⁾.
- **Being non-judgemental:** be respectful and accept other persons' feelings, experiences and values, even though they may be different from your own.

Below you can find some **practical recommendations for your work as an asylum and reception officer**, to help you create safe and trustful spaces with LGBTIQ applicants.



Recommendations for staff

- Consider that anyone you meet or interact with could be a person of diverse SOGIESC. Therefore, you need to communicate accordingly and use gender-neutral language, without assuming that anyone is heterosexual, has a certain gender identity or prefers a certain gendered pronoun. Examples of inclusive terminology ⁽⁷⁵⁾ include:
 - 'partner' or 'spouse' instead of 'husband/wife',
 - 'they/them' as a gender-neutral pronoun.
- When an applicant discloses their diverse SOGIESC to you, you should process the interaction in a respectful and simple manner to gather the information that is necessary depending on the situation and context. You may adapt your verbal communication and body language to a neutral tone. Reacting in a biased manner might convey to the applicant that you are not offering a safe space.
- Always allow an applicant to self-identify and describe their gender identity and sexual orientation. Use the self-identifying terminology used by the person themselves, even if it is not common or known to you. If you are not sure what a term means or how an individual is using it, ask, 'What does this term mean to you?'.
- Do not impose terms on anyone. After an applicant has shared their diverse SOGIESC, ask them if they use a particular term to describe their own SOGIESC.

⁽⁷⁴⁾ For more information and advice on communication skills and active listening, see also Heartland Alliance, [Rainbow Response: A practical guide to resettling LGBT refugees and asylees](#), p. 14.

⁽⁷⁵⁾ For more examples, see Section [Glossary of inclusive language and communication](#).



Recommendations for staff

- If you unintentionally misgender ⁽⁷⁶⁾ an applicant, excuse yourself and make a conscious effort to remember. Correct yourself if you repeat the misgendering so the applicant will know that you respect their gender identity.
- Do not rush or interrupt individual sessions or interviews with applicants. Be an active listener and address any questions and concerns in a positive manner.
- Avoid derogatory terms. If an individual uses a derogatory term to describe themselves, ask what the term means to them and if they use any other terms. You can also write an explanatory note where you record the information.
- Ensure privacy and confidentiality, especially when the applicant is about to or has started sharing sensitive or personal information and experiences with you.
- Never assume that your interlocutor thinks or would approach a specific situation in the same way as you.
- Be aware of your facial expressions, eye contact, body movement and posture but also to your paralanguage such as pace of speech, rhythm, tone and volume of voice.
- Avoid making assumptions based on your conscious or unconscious bias. For example, someone who is socially perceived as a woman (e.g. because they wear skirts or make up), might not self-identify as a woman.
- As much as possible, acknowledge the struggles/pain that an applicant shares with you. Being dismissive can result in the applicant shutting down and not sharing crucial information with you.

For further guidance on how to establish trust and communicate during the examination of SOGIESC-based applications, consult the [Practical guide on applicants with diverse SOGIESC – Examination procedure](#), Section 1.1. The importance of trust.

Below you can find some **practical recommendations for managers and policymakers** to help you create safe and trustful spaces with LGBTIQ applicants. You can integrate these recommendations into your strategies, policies and everyday actions.

⁽⁷⁶⁾ Misgendering is the act of referring to someone (especially a trans or non-binary person) using a word, especially a pronoun or form of address, that does not reflect the person's gender identity.





Recommendations for managers and policymakers

- Develop, use and disseminate information materials, such as leaflets, posters or videos that promote diversity, LGBTIQ rights and inclusion. Display them in common areas or disseminate them digitally (e.g. on the webpage of your organisation/authority). Keep in mind that not all applicants are able to read. For this reason, visual materials or videos should be considered too. See also Section [5.2. How to provide information](#).
- Use gender-neutral language as well as images and visuals that accurately reflect the diversity of the LGBTIQ community. Instead of using traditional cis and heteronormative images, try to find photographs and videos that include LGBTIQ people.
- Consider displaying rainbow flag/symbols and/or 'safe space' signs to express that you are an ally and that you provide a safe place for disclosure ⁽⁷⁷⁾. Similarly, consider distributing 'You are safe here' or 'You are safe with me' pins for staff members to wear while working with applicants.
- Be gender- and SOGIESC-inclusive when planning and implementing activities which encompass or promote community participation and engagement (e.g. focus groups discussions, community structures or representation bodies, needs assessment).
- Ensure appropriate rooms and spaces that ensure privacy and confidentiality are available in all asylum authorities and reception centres, especially where sensitive information is likely to be disclosed.
- Ensure a diverse gender composition of staff, especially those who are in direct contact with the applicants, such as registration officers, case officers, interpreters, reception workers and medical staff.
- Appoint focal points (or reference persons) on SOGIESC to advise other staff members when requested or needed. You may also consider implementing shadowing or coaching programmes so that staff members who are less knowledgeable on SOGIESC can learn from more experienced colleagues.
- Ensure that staff (including interpreters) are regularly trained on SOGIESC-related matters, including basic sensitivity, diversity and cultural awareness. For more information on training, see Chapter [5. Information provision, capacity building and awareness raising](#)).
- As a manager, be aware that some employees might not be willing or able to overcome their biases and prejudices against all or certain groups of LGBTIQ people. Discuss any concerns with the relevant staff and consider not deploying them in critical posts where such biases might affect their attitude, hence their ability to treat the applicants with respect and dignity.
- Develop complaint and feedback mechanisms. Ensure all applicants can give input on the services provided and that their views and feedback are duly heard and considered.

⁽⁷⁷⁾ Safe space signs can be posted in the waiting areas of registration centres, in the personal interview rooms/offices as well as in reception centres (e.g. counselling areas).



3.2. Inclusive communication and language

As previously explained (Section [3. Inclusive communication and creating safe spaces](#)), inclusive communication is free from any prejudice, criticism or discrimination and is respectful of the individual's SOGIESC.

Every language carries its own cultural specificities and grammar rules. Languages can be gendered or gender-neutral, for example. Grammatical gender does not or cannot always match our way of perceiving the world. For example, for non-binary persons, it can be challenging to use the pronouns available in their languages. Translating between languages with and without gendered pronouns can also be difficult, so confusions and mistranslations are likely. For that reason, it is important to use the most appropriate gender-neutral terms when interacting with or referring to specific applicants. Applicants should be given the possibility to choose the pronouns and other gendered elements of their choice, especially when any of the languages used distinguish between gendered pronouns (or even conjugations).

3.2.1. Self-identification and use of the right pronouns

Some individuals self-identify ⁽⁷⁸⁾ as 'gay' or 'lesbian'. Others avoid altogether any term that could describe their SOGIESC. Many languages lack special words for describing the SOGIESC diversity. Therefore, while it is good to know how gender, sexuality and gender identity are commonly defined in Europe or in your closer context, you should also be aware that this terminology can be utterly strange for many LGBTIQ people who come from other cultures. Many LGBTIQ applicants come from socio-cultural contexts where only derogatory and offensive terms exist to describe LGBTIQ identities. Some applicants may not know any other option than using derogatory terms. They may try to circumscribe their identity in an indirect way to avoid the use of such terms. Moreover, some LGBTIQ applicants may use SOGIESC terms in a different way to the way in which they are widely understood ⁽⁷⁹⁾.

Additionally, just like every other person, trans, non-binary and gender non-conforming people want to be addressed with the correct pronoun, name, gender and title. It is often assumed that trans women use 'she/her(s)', that trans men use 'he/him/his', and that non-binary people use 'they/them/their(s)'. However, if you do not know the pronouns of choice of the applicant you are working with, or if they have not explicitly shared their preferred pronouns, it is best to politely ask. The question should be asked in a safe environment and ensuring confidentiality and not putting the individual at risk of exposure or harm. In contexts where the language

⁽⁷⁸⁾ Many experts and scholars have gradually started to use the term self-determination over the term self-identification, according to [Transgender Europe](#) (TGEU), 'Gender Self-determination Actually Works! Study Finds', 19 June 2023.

Self-determination refers to a much wider concept than self-identification. Self-identification refers to declaring one's gender identity at a registry office. It is one part of a procedure based on self-determination. However, determining one's gender identity is a much longer and complex process. Self-determination is also traced back to and embraced by feminist and indigenous struggles. It is also recognised by key human rights courts.

⁽⁷⁹⁾ For example, a trans applicant may use the term 'homosexual' to self-identify, if this is the only or prevailing term in their country of origin.



being spoken does not have pronouns but uses gendered terms of respect, such as ‘little sister’ or ‘little brother’, you should ask the person how they prefer to be addressed.

3.2.2. How to be inclusive in communication

Inclusive communication strategies have the potential to make vulnerable LGBTIQ applicants feel comfortable with their own identity. As asylum and reception staff working in the field, your communication style should avoid any connotation of sexism or discrimination. Your communication should challenge discriminatory structures and respect diversity.

Dos and don'ts on inclusive language and communication	
DOs	DON'TS
	Never assume anyone's gender identity or pronouns.
	When someone tells you they are in a romantic relationship, do not assume that the partner is of the 'opposite' gender.
Always allow the applicant to self-identify using their own words. Always ask by what name and, if relevant, what pronoun and gender the applicant wants to be addressed. If you accidentally use an incorrect name or pronoun, correct yourself and continue the discussion with the applicant.	Do not correct the applicant and do not lecture them about what you consider to be the 'proper' use of pronouns or terms. If the applicant uses a derogatory term to self-identify, do not correct them. You may ask the applicant what they mean by this term but try avoiding using those terms yourself. Explain to the applicant why. Do not label the applicant under the LGBTIQ acronym, but rather listen to their story or experiences with the intent to understand.
When using forms, allow for some SOGIESC-fluidity (i.e. envisage more options than just 'male' or 'female').	
	Do not react to the disclosure of diverse SOGIESC with surprise or shock.
Be open and empathetic in your communication. Listen and communicate without criticism or judgement.	
Make sure that you reassure the applicant about confidentiality. If the person needs further assistance and this requires sharing their diverse SOGIESC with others, explain to	



Dos and don'ts on inclusive language and communication	
them who will receive this information and ask for consent.	
Pay attention to non-verbal communication. Gestures, body posture and face expressions might appear as judgemental or disapproving.	

Glossary of inclusive language and communication

The table below provides some suggestions ⁽⁸⁰⁾ on terms to use and terms to avoid in your interactions with applicants. Using the recommended terms can assist your efforts towards inclusivity and respecting diversity, irrespective of whether such interactions are one-to-one (e.g. personal interviews, one-to-one sessions in reception) or in a collective manner (e.g. information provision material, group information sessions) ⁽⁸¹⁾.

What not to use	What to use
Hermaphrodite	Intersex
Biological sex	Assigned sex
Wife/husband	Spouse/partner
Boyfriend/girlfriend	Partner
Ladies and gentlemen / men and women	Persons / people (of all genders)
Faggot, fag, homo, dyke	Gay, lesbian, trans/transgender
Gays / the gays, homosexuals ⁽⁸²⁾	Gay people/persons
Sexual preference	Sexual orientation

⁽⁸⁰⁾ Be mindful that the glossary and terms included here refer to the English language as the language of drafting. There might be an extensive range of variations and different (positive, neutral or negative) meanings in other languages.

⁽⁸¹⁾ For more information and practical examples on inclusive communication, see also IOM, [Guidance on Gender Inclusive Communication](#), June 2021.

⁽⁸²⁾ The term 'homosexuals' in the plural should be avoided when used to refer to LGBTIQ persons or applicants indistinctly. It is usually perceived as derogative.



Below are some **practical recommendations for managers and policymakers** to help you ensuring SOGIESC-inclusive communication. You can integrate these recommendations into your strategies, policies and everyday actions.



Recommendations for managers and policymakers on SOGIESC-inclusive communication

- Make sure that inclusion of and respect towards LGBTIQ persons are parts of capacity building programmes for asylum and reception staff. This should include educating asylum staff on the importance of using gender-neutral language, understanding the different identities and orientations within the LGBTIQ community, knowing and respecting the rights of LGBTIQ applicants as well as recognising and addressing one's own bias ⁽⁸³⁾.
- Develop a code of conduct and guidelines for asylum staff that outline expected as well as non-accepted behaviours when interacting with LGBTIQ applicants.
- Promote active listening and open dialogue between asylum staff and LGBTIQ applicants to ensure that their individual needs and concerns are heard and addressed.
- Design and roll out feedback mechanisms that are accessible and safe for people with diverse SOGIESC, where they can also express their individual concerns, including in the areas of language and communication.
- Reach out to your local or national LGBTIQ organisations and networks for a list of correct SOGIESC terminology in your language (where available) and make sure it is circulated within and used by your staff. In any type of collective interaction with applicants (e.g. information provision) make sure the correct terminology and language is used ⁽⁸⁴⁾.

⁽⁸³⁾ See also Section [5.3. Staff capacity building on SOGIESC](#).

⁽⁸⁴⁾ See also Section [Glossary of inclusive language and communication](#).



4. Interpretation



This chapter explains why the presence of LGBTIQ-aware, sensitive and skilled interpreters is crucial in all interactions with applicants to create a safe environment but also to ensure a fair and just procedure. This chapter elaborates on the skills interpreters should have as well as on the techniques they should apply when interpreting in SOGIESC cases. It also covers elements and conditions you should consider when working with interpreters on such cases. Be aware that this section focuses on working **with** the interpreters and is not a guidance **for** interpreters ⁽⁸⁵⁾.

The right of the applicant to communicate and be informed about all matters pertaining to asylum and reception procedures in a language they understand is fundamental in the CEAS ⁽⁸⁶⁾. For this reason, interpreters are central in the interaction between the registration or case officer, the reception officer and the applicant. Access to an interpreter should always be ensured and the applicant must be informed about this right throughout the asylum pathway.

As a basic principle for all types of interviews with applicants, interpreters need to interpret accurately without additions, omissions, amendments, comments or other expressions (verbal or non-verbal) ⁽⁸⁷⁾. For the interpreter to be able to accurately interpret, they need to master both languages (source and target language) and be able to fully comprehend the nuances behind the words. In addition, an interpreter should have a good knowledge of the terminology relevant to the subject matters that are discussed in the interview and the cultural background of the interviewee ⁽⁸⁸⁾. Furthermore, the gender of the interpreter might also play a role and this should be factored in when selecting the right interpreter for an interview.

When it comes to the interpretation of SOGIESC-related narratives, it is imperative that the interpreter contributes to maintaining an open and neutral attitude, including with their non-verbal communication (see also Section [3.1. Creating safes spaces](#)). This enables the applicant to self-identify and disclose their SOGIESC using their own words, which should be accurately reflected in the interpretation. The presence of SOGIESC-aware, sensitive and skilled interpreters is thus crucial to the establishment of a trusting relationship in a safe environment.

Besides the authority's obligation to ensure interpretation in a language the applicant fully understands, the applicant should also be entitled to choose the interpreter's gender. This is

⁽⁸⁵⁾ For more information on interpretation in the asylum procedure, see EUAA and the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC), [Practical Guide on Interpretation in the Asylum Procedure](#), February 2024.

⁽⁸⁶⁾ See, for example, Articles 8(2) and (3), 13(5), 36(3) and (4) APR, Article 5(2), Article 9(5) RCD (2024) and Articles 20(1), 22(4), 42(5) AMMR.

⁽⁸⁷⁾ In some Member States there is a distinction between interpretation in the asylum procedures and interpretation in reception. In the former case, the interpreter should interpret the content of everything that is said, without paraphrasing or using alternative expressions and terms. In the context of reception, interpreters (or rather cultural mediators) are usually expected to interpret in a way that promotes mutual understanding by largely taking into account cultural elements. In other words, the cultural mediator or interpreter in the reception context might be requested to perform their duties beyond interpretation, by advising both parties on appropriate cultural behaviours.

⁽⁸⁸⁾ For more information and guidance for interpreters, see also EUAA and IGC, [Practical Guide on Interpretation in the Asylum Procedure](#), February 2024.



to make the applicant feel comfortable to speak openly and explain their story. If the applicant's wish for an interpreter of a certain gender cannot be accommodated, the reasons should be explained to them.

Applicants may also express preference (or non-preference) regarding the interpreter's country of origin and ethnic origin ⁽⁸⁹⁾. Where possible, such requests should be accommodated, as this factor could play an important role in allowing the applicant to be more comfortable to thoroughly express themselves and decrease their fear of being judged, suffering retaliation or being stigmatised.

Using a qualified interpreter is especially essential when dealing with LGBTIQ applicants. The use of interpreters who have experience in providing interpretation for SOGIESC cases and know the relevant terminology will contribute to ensure the quality of interviews and mitigate the risk of the applicants avoiding sharing sensitive information or being (re)traumatised.



Recommendations for staff

- Always use the most qualified and competent (and/or experienced) interpreter available, including on SOGIESC matters. If this is feasible, consider selecting an interpreter who is trained or aware of SOGIESC-related matters and up-to-date terminology in both languages.
- Strive to comply with the applicant's wishes concerning the gender of the interpreter. If the applicant's wish cannot be accommodated, the reasons should be explained to the applicant.
- Be mindful of cultural and gender-based differences in non-verbal communication with applicants with diverse SOGIESC. The meaning and use of body language and non-verbal expression varies from culture to culture and misunderstandings might occur.
- If known beforehand, consider informing the interpreter that SOGIESC will be discussed and inform them about the use of terminology. If the interpreter has not been trained to work with applicants with a diverse SOGIESC, you might want to emphasise the importance of inclusive communication, of creating a safe space, as well as using of positive/neutral body language and positive attitude.
- Reassure the applicant frequently during the conversation that both you and the interpreter have a duty of confidentiality and explain what this means. For registration and case officers, sometimes this requires a contextual explanation from the interpreter, for example in cases when the target language does not have an

⁽⁸⁹⁾ The possibility of expressing preference or non-preference over the interpreter's country or ethnic origin is not always possible nor is it a practice in all national authorities. However, for some claims, including on SOGIESC, the applicant's ability to disclose relevant information might be affected by the interpreter's origin. In such cases, the applicant could be given the possibility to flag this to the authority, which should address it to the extent of their capacity. See also Sexual Orientation and Gender Identity Claims of Asylum: A European human rights challenge, [32 recommendations to the European Commission on the new EU LGBTI+ Equality Strategy](#), 2020, recommendation No. 9.



appropriate word to express this concept. Ahead of your interaction with the applicant, check with the interpreter if this is the case in the language at hand.

- Ensure the applicant feels safe and free to share sensitive information, especially if it is obvious that the applicant and the interpreter share a common ‘identity’ (e.g. ethnic or country of origin). Applicants may feel uncomfortable discussing their SOGIESC openly in front of an interpreter and may not answer questions in a straightforward way.
- Continuously observe and assess body language. From time to time, ask the applicant if they feel comfortable proceeding with the interview/session. If needed and feasible, propose alternatives such as pausing, rescheduling, replacing the interpreter.
- If you notice impropriety in the interpreter’s behaviour, you should signal it as soon as possible to the interpreter. This may require pausing the interview or other session/interaction and gently alerting the interpreter to the problem. If the behaviour or situation persists, you may have to replace the interpreter.
- During the interaction, you should continually observe the applicant and interpreter to make sure both are at ease and interacting naturally.



Recommendations for managers

- Maintain a database or registry of SOGIESC-competent and/or trained interpreters and make sure that staff working directly with applicants can specifically request those interpreters for their interactions with applicants with diverse SOGIESC. Make sure that staff under your supervision are aware and acquainted with this registry.
- Strive to also offer interpretation via video, telephone or other communication means, if this can help LGBTIQ applicants feel safe to tell their story (e.g. when a female interpreter is requested by the applicant but the only available female interpreter at the given time is only available remotely).
- Ensure basic training for interpreters on SOGIESC-related matters and the use of inclusive language. Encourage training and capacity building activities, such as self-learning opportunities and facilitate access to online modules. For more information, see Section [3.1. Creating safes spaces](#).
- Ensure interpreters have access to a list of correct and respectful terminology on SOGIESC in the language of the country of asylum (where available).
- Ensure there are regular refresher and evaluation sessions to assess the interpreters’ skills and competencies on SOGIESC-related matters, terms and definitions as well as on the provision of interpretation to applicants with diverse SOGIESC.
- Establish transparent complaint and feedback mechanisms which are safe and accessible to people with diverse SOGIESC who could provide input on how they felt during the interpreted interaction as well as to provide their proposals for improvement.





Good practice

- The Norwegian Directorate of Immigration (UDI) has developed a centralised interpreter database, interlinked with the national register for interpreters (Nasjonalt tolkeregister). Approximately 95 % of the interpreters in the database are qualified interpreters ⁽⁹⁰⁾ while 5 % have a command of a 'rare' languages, for which no official qualification is possible in Norway.
- UDI regularly offers training opportunities on working with SOGIESC cases to all interpreters registered in the database. Both asylum officers and SOGIESC-specialised organisations participate as presenters in the training module and promote the importance of using inclusive language. In addition, UDI hands out a publication from the Organization for Refuge, Asylum & Migration on essential SOGIESC terminology to all newly registered interpreters in the database ⁽⁹¹⁾
- The Directorate of Integration and Diversity in Norway and the non-governmental organisation for LGBTIQ people with minority backgrounds Skeiv Verden (Queer World), have created films and glossaries in Arabic and Somali languages to introduce positively charged words for queer minorities and youth and for queer-friendly interpretation ⁽⁹²⁾.



Related EUAA training modules

The EUAA offers a module entitled '[Working with an interpreter](#)' provides asylum and reception officers with the necessary knowledge and skills to communicate effectively through an interpreter. It also aims to offer tips and follow-up actions to address potential breaches of conduct by the interpreter.

This module focuses on the criteria for selecting an interpreter, the skills needed to communicate through an interpreter and how to handle challenging situations when communicating through an interpreter. It also addresses the interpreter's code of conduct and gives tips on how to address possible breaches of conduct by the interpreter.

If you are interested in attending EUAA training courses, contact the person responsible for training within your authority to receive additional information.

⁽⁹⁰⁾ In the practice of Norway, interpreters who fall under the category of 'qualified' either a) hold a bachelors degree in interpreting or b) possess the relevant state authorisation or c) have successfully undergone a formal examination (Bilingual Test for Prospective Interpreters) [Tospråktesten - OsloMet](#) at Oslo Metropolitan University and can offer interpretation services under the concept of [Public Service Interpreting](#).

⁽⁹¹⁾ Organization for Refuge, Asylum & Migration, [Sexual Orientation, Gender Identity and Gender Expression: Essential Terminology for the Humanitarian Sector](#), 2016.

⁽⁹²⁾ IMDI, [Are you queer and need nice words to describe you in Arabic or Somali?](#), 2020 available in Norwegian with specific content in Arabic and Somali languages.



5. Information provision, capacity building and awareness raising



The provision of information to applicants for international protection is guaranteed and explicitly provided for in the relevant EU law ⁽⁹³⁾. It is essential to inform the applicants in a simple, non-technical language that they understand as well as in an age-appropriate manner, in case of children. The information provided to the applicants must include what they are to expect in asylum and reception procedures as well as their respective rights and obligations.

This chapter elaborates on the type of information that must be provided to applicants, with specific considerations for LGBTIQ-related issues and on the ways this information is best provided to them. In addition, this chapter covers matters related to the visibility of materials, capacity building on SOGIESC and raising awareness among all applicants regarding the rights of LGBTIQ applicants. This chapter mainly targets asylum and reception staff working directly with applicants. However, several recommendations and guidelines address managers of asylum and reception authorities (where indicated).

5.1. Type of information

5.1.1. International protection and the grounds for asylum

Information about what international protection is and the reasons that can constitute grounds for asylum should be provided as early as possible in the asylum procedure.

At the stage of ‘making an application’ ⁽⁹⁴⁾, information should be provided about ‘what international protection is’, explaining that it arises when a person is unable to return to their home country because they would be exposed to a risk of persecution or serious harm, and their country would not protect them. The risk of persecution or serious harm includes threats to life, freedom or physical integrity.

At the stages of registering or lodging an application, further information should be provided on the two types of international protection recognised by EU law (refugee status and

⁽⁹³⁾ The following articles and recitals refer to the type, time and manner/means of information to be provided: recital 16, Article 8(2)(5)(7), Article (12(1), Article 15(2), Article 23(5), Article 36(3)(4) and Article 40(2) APR, recitals 12, 21, 34, Article 5, Article 9(5), Article 11(4), Article 12(5) and Article 21 (subparagraph 2) RCD (2024), recital 38 and Articles 19-20 AMMR.

⁽⁹⁴⁾ In accordance with APR, there are three steps in access to procedure: making, registering and lodging. Making of an application refers to the act of expressing the wish to apply for international protection to an authority. Accordingly, the applicant is considered an applicant with the rights and obligations attached to this status. Registering means establishing a record of the applicant’s intention to seek protection, thus noting down that the applicant is an applicant for international protection. Lodging completes the registration procedure, after which the examination procedure of the application starts. These procedural steps do not necessarily reflect three distinct phases. Depending on the national setting, the phases can be combined in one or two steps. In practice, making usually happens during the first contact of the applicant with the authorities and is then followed by registration and lodging.



subsidiary protection). More precisely, when providing information about the refugee status, it is important to mention the possibility to apply for asylum on the ground of well-founded fear of persecution for the Geneva Convention reasons: one's race, religion, nationality, political opinion or belonging to a particular social group ⁽⁹⁵⁾. When providing this information, examples of what 'belonging to a particular social group' means might be provided in a simple language for the person's better understanding, including, for instance, the examples of having a well-founded fear of persecution due to being a woman, a person with disabilities and/or an LGBTIQ person.

Although their (imputed) SOGIESC might be the main or one of the reasons a person has fled their country of origin (and/or they cannot safely return to it), applicants may not be aware of the possibility to claim asylum on the ground of persecution due to their SOGIESC, or they may not feel empowered or safe to disclose it at the very initial stage of the procedure. Among other challenges and implications, this lack of awareness might result in non- or late disclosure, which may have an impact on the possibility of being recognised as a beneficiary of international protection.

For more information on late disclosure, consult the [Practical guide on applicants with diverse SOGIESC – Examination procedure](#), Section 5.2.1. Assessing the applicant's statements and Section 8.1. A new claim presented in the subsequent application based on SOGIESC.



Related EUAA publications

The EUAA-Frontex, [Practical Guide on Access to the Asylum Procedure](#), 2023 supports first-contact officials in their role of guaranteeing effective access to international protection in the first-contact context, for example by providing information. This practical guide provides information about the core obligations of first-contact officials, the rights of persons in need of international protection, information on the procedural guarantees and on the support that is provided in the first-contact context.

The EUAA, [Practical Guide on Information Provision – Access to the asylum procedure](#), 2023 aims to support EU+ officials providing information to applicants during access to the asylum procedure. The guide outlines basic principles for information provision and communication techniques.

5.1.2. Procedural information and legal aid

As laid down in the APR ⁽⁹⁶⁾, all applicants should be provided at a very early stage with comprehensive procedural information and on their rights and obligations, including, more precisely, the rights of those applicants in need of special procedural guarantees. When it comes to LGBTIQ applicants, special procedural guarantees might refer to the opportunity to be interviewed separately from one's spouse, partner or other family members, the right to request a case officer and an interpreter of one's preferred sex and the possibility to have

⁽⁹⁵⁾ See also EUAA, [Practical Guide on Information Provision – Access to the asylum procedure](#), 2023, Section 3.1.1(b) Information provision message.

⁽⁹⁶⁾ Recital 16, Articles 8 and 21 APR.



their case prioritised. Such type of information should be conveyed in a simple and age-appropriate language. Concrete examples can be offered to the applicants to explain how those guarantees are implemented into the various stages of the asylum procedure. It is also particularly important to stress out the principle of confidentiality which underlies the asylum procedure ⁽⁹⁷⁾, as soon as possible and at the early stages of the procedure (making or registration)- this is particularly relevant for LGBTIQ persons, due to the sensitive nature of SOGIESC and the increased fear of stigma and harassment.

Moreover, Article 20 APR introduces the responsibility of competent authorities to individually assess whether an applicant is in need of special procedural guarantees and within 30 days after the lodging of their application ⁽⁹⁸⁾. Applicants should be informed at an early stage that this assessment is part of the procedure, what it might entail (e.g. medical and/or psychosocial examination, confidentiality safeguards) and that its findings might determine the provision of special procedural guarantees. This is particularly important in case of LGBTIQ applicants, who might be initially reluctant to talk about their SOGIESC and their relevant needs due to fear of stigma.

Furthermore, applicants should be informed at an early phase of the procedure that they should notify the competent authorities if they are unwell, if they need psychological or medical support, if they had serious traumatic experiences, like torture, rape and serious forms of psychological, physical or sexual violence, in order to receive adequate support. Likewise, these elements are particularly relevant to LGBTIQ persons due to their specific circumstances which make them more vulnerable to violence and isolation (for more information on the intersecting identities and needs of LGBTIQ applicants, consult the [Practical guide on applicants with diverse SOGIESC – Information note](#), Section 2.2. Intersectionality in asylum).

Additionally, the applicants should be informed about their right to free legal counselling during the administrative procedure as well as about their right to request free legal assistance and representation in the appeal procedure and how to access those services ⁽⁹⁹⁾. Enabling the effective access of LGBTIQ applicants to legal counselling can help them in efficiently presenting their claim and taking part in the examination process. Legal counselling, assistance and interpretation could also be provided by specialised CSOs or other relevant actors including UNHCR.

Furthermore, applicants should be informed about the main provisions set out in Part III (Criteria and mechanisms for determining the member state responsible) of AMMR, especially in relation to their right to be reunited with other family members or relatives in another

⁽⁹⁷⁾ With regard to confidentiality, the following elements should be considered for the information provision message: all data given by the applicant to the competent authorities is not shared outside the authority without the consent of the applicant. Exceptions may apply, under certain circumstances regulated by national legislation. Data given by the applicant is under no circumstances shared with authorities in the country of origin.

⁽⁹⁸⁾ The final decision on the type of special procedural guarantees is made by the determining authority (Article 20(4) second subparagraph APR).

⁽⁹⁹⁾ Articles 16 and 17 APR. See also Article 47 of the Charter on the right to an effective remedy, and ECRE/ELENA, [Legal Note on Access to Legal Aid in Europe](#), 2017.



Member State ⁽¹⁰⁰⁾. Depending on national practice and regulatory framework, this might include reunification with same-sex spouses or partners in another Member State, under certain conditions. If AMMR triggers are detected, additional information should be provided about the relevant procedures, tentative timeframes as well as the applicants' rights and obligations and.

5.1.3. Reception conditions and process

As laid down in the RCD (2024) ⁽¹⁰¹⁾, all applicants should be provided with information relating to the reception conditions, including their rights and obligations but also specific information about the entitlements of persons with special reception needs- which include, among others, of applicants with diverse SOGIESC ⁽¹⁰²⁾. That information must be, first, provided as soon as possible and no later than three days from the making of the application or within the timeframe for its registration- in accordance with APR.

Besides the information provided at the early stage of reception (upon arrival), the ongoing provision of information on rights and obligations of applicants is one of the most important elements of the overall reception process.

During their stay in reception, applicants should be informed, among other elements, about available services and assistance, activities, school and courses, including those that are intended for or particularly relevant to LGBTIQ persons. Information on house rules should also include the obligations of the applicant vis-à-vis other applicants (such as respect for SOGIESC diversity and LGBTIQ rights) (see also Section [5.4. Raising applicants' awareness on SOGIESC](#)).

Applicants should also be informed about identification and assessment procedures that take place in reception, as a means to identify persons with special reception needs and make sure they have access to the respective reception conditions, including them being referred to the appropriate authorities or other service providers ⁽¹⁰³⁾. The applicants need to be explained what special needs are (including examples of those needs of applicants with diverse SOGIESC), what additional services the applicant can receive depending on the needs and in accordance with the national practice, who is responsible for providing such services and how they can be accessed. For persons with diverse SOGIESC, such special reception conditions might include, for example, their right to be accommodated together with their spouse and family members in conditions that ensure privacy, the right to receive specific healthcare including sexual and reproductive healthcare ⁽¹⁰⁴⁾, the right to psychological treatment and care, including rehabilitation services and counselling where necessary, the right to receive non-food items (e.g. hygiene items) that are in accordance with their actual needs.

⁽¹⁰⁰⁾ Articles 19 and 25-28 AMMR.

⁽¹⁰¹⁾ Recital 12 and Article 5 RCD (2024).

⁽¹⁰²⁾ Article 24(f) RCD (2024).

⁽¹⁰³⁾ For more information on identification and assessment of special reception needs of LGBTIQ applicants, consult the EUAA, [Practical guide on applicants with diverse SOGIESC – Reception](#), October 2024, Chapter 3. Identification, assessment and response to the needs of applicants with diverse SOGIESC.

⁽¹⁰⁴⁾ As defined in Article 22(1) RCD (2024).



Additionally, applicants should be aware that they can report or disclose any special needs they might have to reception staff in privacy and at any time, in order to receive adequate support. This might include special needs of persons with diverse SOGIESC. They should also be explained to whom they can talk to, especially if there are specific focal/reference persons on SOGIESC (or on gender issues or on vulnerable groups in general), how they can be reached.

5.1.4. Information on LGBTIQ organisations

Firstly, applicants have the right to contact and communicate with UNHCR and any other organisation providing legal advice or other counselling in accordance with national law ⁽¹⁰⁵⁾. Similarly, while in reception, applicants have the right to be provided with information on organisations or groups of persons that provide specific legal assistance and representation and organisations that might be able to help or inform them concerning the available reception conditions, including healthcare ⁽¹⁰⁶⁾. These organisations might also include those specialising in the rights of LGBTIQ people (LGBTIQ organisations), by providing legal aid or other types of services, counselling or support to LGBTIQ persons or applicants specifically.

LGBTIQ organisations at local, national, regional or international level are likely to provide a wide range of services and possibilities to the benefit of the rights and well-being of LGBTIQ people, including applicants for international protection. Such services may include information provision on their rights, legal and psychosocial counselling and representation, rehabilitation services, vocational training or running social hubs or peer-groups for persons with diverse SOGIESC.

As a reception worker or registration/case officer in asylum, you can keep up-to-date information and contact details of such organisations ⁽¹⁰⁷⁾, including on LGBTIQ organisations, in order to inform applicants about their services and how to access them. It is also a good practice to refer interested applicants to such organisations with their consent, where this is in line with your duties, as per national law or practice.

5.2. How to provide information

Since the reasons for applying for asylum can be very sensitive or personal, including the persecution linked to one's SOGIESC, third country nationals/stateless persons and applicants might hesitate to share information or ask questions openly. It is important for reception officers, case officers and registration officers to be aware of these possible situations and to take this into account when providing information.

⁽¹⁰⁵⁾ Article 8(4) APR.

⁽¹⁰⁶⁾ Article 5(1) RCD (2024).

⁽¹⁰⁷⁾ For instance, the Rainbow Refugees Welcome Initiative has created a [map](#) which shows LGBTIQ shelters and places in Europe where good practices have been put in place to better address the LGBTIQ needs of refugees. Similarly, ILGA Europe has created [a list of contacts](#) (including organisations, institutions, hotlines operational in various EU countries) for LGBTIQ persons fleeing Ukraine. Additionally, ILGA-Europe has a [list](#) of its members in 54 countries in Europe and Central Asia, which can be consulted in identifying relevant LGBTIQ organisations operating in each EU+ country.



Information can be provided either on an individual or in a collective manner (addressing a wider group of people at the same time). Information can be conveyed to applicants through a variety of channels, including oral communication, printed information materials, digital communication and audio-visual products.

In all cases, you should ensure that all information, and in particular information about specific rights, obligations, the asylum procedure and the applicant's individual case is fully and properly understood. When it comes to LGBTIQ applicants, you may consider conveying information (in part or in full) on an individual basis (e.g. through an information session or before/after the personal interview), due to the sensitive nature of SOGIESC itself, which may require specific attention and confidentiality guarantees.

Collective information materials such as leaflets, posters or videos about diversity, LGBTIQ rights, inclusion, anti-discrimination or more specifically on the rights of LGBTIQ applicants in the asylum context and beyond (e.g. in the country of asylum) can be distributed or displayed in relevant areas or spaces (safe spaces, waiting areas, interview rooms, hygiene facilities/restrooms, medical spaces, detention facilities and on the website of the competent authorities). It is also recommended that LGBTIQ-friendly visibility material (e.g. rainbow symbols, posters, etc.) are shown in confidential interviewing and offices or rooms that typically accommodate private sessions (e.g. personal interviews, rooms used for vulnerability assessment in reception).

The information should be provided to all applicants, including children and adolescents, regardless of whether they apply individually or as part of a family group as well as to persons in detention facilities ⁽¹⁰⁸⁾.

Finally, considering that peer support is particularly important for LGBTIQ people in migration and forced displacement, you may encourage and assist LGBTIQ applicants, especially in reception facilities, to establish their own communication channels (e.g. through mobile applications or social media) to strengthen their network and share accurate information.

The following table provides **practical recommendations** for all types of professionals in asylum and reception in relation to designing and implementing information provision strategies and activities.

⁽¹⁰⁸⁾ UNHCR, [*Need to Know Guidance: Working with Lesbian, Gay, Bisexual, Transgender, Intersex and Queer Persons in Forced Displacement*](#), 2021.



Recommendations on information provision

- Communication and information provision materials should be designed and delivered in a way that shows a variety of groups and highlights diversity, including SOGIESC. When visuals and animations are used, human figures should be gender-diverse and/or neutral, avoiding stereotypical portrayals of male/female and of people with diverse SOGIESC.
- You need to be cautious when designing or disseminating pamphlets and leaflets that include information on LGBTIQ-related rights and the services provided. When reaching applicants with diverse SOGIESC, avoid outing ⁽¹⁰⁹⁾ them as this may lead to stigma, harassment and discrimination from other applicants or the host community. To this end:
 - use a neutral layout for your information material;
 - include a variety of information and topics, not solely focusing on LGBTIQ-related issues;
 - place your information material in the same locations as other communication materials.
- Bear in mind the importance of gender-inclusive language and communication in information provision. Refrain from using gendered (male or female) pronouns and adjectives and instead use more neutral terms (they/them) when referring to any type of person (either a staff member or an applicant).
- Be cautious when planning and implementing group information provision activities for LGBTIQ applicants, as this might result in outing the participants to other applicants, members of the host community, or even other participants. Confidentiality and privacy should always be carefully considered. Safeguards should be put in place, ideally after consulting with the participants or (if not known or available) with other LGBTIQ applicants or experts on LGBTIQ-related issues (e.g. CSOs or SOGIESC focal points within the authority). Remember that LGBTIQ persons are not a homogenous group and, as such, they have different needs.

For further guidance on providing information in the context of the examination procedure, consult the [Practical guide on applicants with diverse SOGIESC – Examination procedure](#), Section 1.1. The importance of trust, Section 4.2.1. Providing information and Section 4.4. Closing the interview.

For further guidance on providing information in the context of reception, consult the [Practical guide on applicants with diverse SOGIESC – Reception](#), Section 2.2. Risk mitigation, Table 4. Information Provision, Section 3.1.1. Self-identification, Table: Enabling self-identification: challenges, barriers and recommendations and Section 4.2.4. Information Provision.

⁽¹⁰⁹⁾ Outing is the act of disclosing a person's SOGIESC without the person's consent.



**Related EUAA tool**

The EUAA, [Let's Speak Asylum](#) portal provides guidance and a standardised set of practical tools and templates to support EU+ countries in the implementation of information provision activities during the asylum procedures, the Dublin procedure, reception and resettlement. Specific considerations are provided regarding persons with specific needs, including LGBTIQ applicants. It also includes an Information Provision Library which can help users to develop quality information materials, based on good practices and selected materials produced by EU+ authorities and other entities.

**Good practice**

The UDI displays information on screens at the National Arrival Centre on how applicants can access Skeiv Verden (Queer World), a national organisation which offers social activities and individual counselling to members of the LGBTIQ community from a minority background, including applicants for international protection. The information, including contact details, is displayed in different languages spoken by the applicants.

5.2.1. Visibility on diversity and SOGIESC

Any type of information material explaining what international protection is should always include reference to the five Geneva Convention reasons for persecution on the basis of which refugee status is recognised, including the fear of persecution because of membership of a particular social group as a possible asylum ground. Such references could be accompanied by examples of members of particular social groups, such as being a person with diverse SOGIESC. Similarly, when it comes to reception, information on the rights and special reception conditions from which LGBTIQ applicants might benefit should be included along with information on how to access such rights and services.

In addition, to support the element of visibility and to create a safe environment, LGBTIQ symbols such as rainbows or trans flags could be placed in the premises of reception and asylum authorities that are accessed by applicants (e.g. reception centres and premises where registration and interviews take place).

On special LGBTIQ-awareness days or periods, you may consider organising information sessions on the rights of people with diverse SOGIESC or other type of actions and activities. For instance, as a statement that SOGIESC diversity is supported, you may fly the rainbow or other flags at your work premises on International Day Against Homophobia and Transphobia (17 May), on Coming Out Day (11 October), on International Transgender Day of Visibility (31 March) or during Pride events.

It is recommended that reception and asylum staff and authorities regularly consult CSOs, UNHCR and other relevant institutions but also LGBTIQ applicants directly (e.g. through focus



groups discussions) on the safest and most appropriate way to design and implement activities in relation to this type of information provision.



Good practice

In the Netherlands, the national reception authority (COA) hoists the Rainbow Flag at all COA locations on the International Day against Homophobia and Transphobia and the International Coming Out Day ⁽¹¹⁰⁾.

5.3. Staff capacity building on SOGIESC

It is of utmost importance that asylum and reception staff are aware and knowledgeable of the SOGIESC-specific terms, elements and needs pertaining to their tasks and portfolio. Attitude is also crucial: be approachable, open, empathetic and non-judgemental towards applicants with diverse SOGIESC.

Capacity building and strengthening of knowledge for asylum and reception staff are explicitly prescribed by the APD (recast) and RCD (recast), as an obligation for Member States ⁽¹¹¹⁾.

For **managers and policymakers** in asylum and reception, you should make sure that basic training on SOGIESC-related matters and diversity, especially on elements relevant to diverse SOGIESC in asylum, is available to all staff involved in the asylum procedures and the provision of reception conditions, including interpreters.

Refresher training sessions should also be available to staff, also because SOGIESC-related notions, trends and needs are a constantly evolving living process. Make sure that the training courses include guidance and information on the use of accurate terminology. LGBTIQ organisations ⁽¹¹²⁾ might also be involved in the organisation and facilitation of such training courses. To achieve long-term results in terms of capacity building, you can opt for ‘train-the-trainer’ courses. This modality is especially relevant in agencies and authorities with significant staff turnover.

Such training should include the following areas:

- introduction to core SOGIESC elements and terms as well as elements specific to LGBTIQ displaced people;
- basic legal framework;
- norms and addressing implicit bias;
- respectful and inclusive language and communication;

⁽¹¹⁰⁾ COA, [Rainbow flags at the COA locations](#), 18 May 2020 (available in Dutch).

⁽¹¹¹⁾ Recitals 32, 42 Article 4(8), Article 13(7) point 9(a), Article 20(5) APD, Article 20(8), Article 25(2), point (a), Article 26(6) Article 28(2) and Article 33(1) RCD (2024).

⁽¹¹²⁾ See also ORAM International, [Sexual & Gender Minority Refugees Safe Space Checklist](#), 2015.



- creating safe spaces;
- first response to incidents of violence and abuse ⁽¹¹³⁾.

Specialised staff (e.g. social workers, psychologists, medical staff) that are involved in vulnerability management in reception (identification, assessment, response, case management) should have access to more advanced training, including identifying signs and indicators of vulnerability, conducting vulnerability assessment, as well as managing individual cases. Similarly, registration officers and case officers should have access to tailored training according to their tasks. The relevant staff of the competent asylum authorities and any medical practitioner, psychologist or other professional giving advice on the need for special procedural guarantees need to be trained on detecting signs of vulnerability on the part of an applicant who might need special procedural guarantees, including those of applicants with diverse SOGIESC.

Further to training courses and workshops, you can offer other capacity development opportunities and activities, for example:

- short information sessions delivered by LGBTIQ experts from CSOs, international organisations or other national authorities targeting staff and addressing specific elements on SOGIESC;
- dissemination of information provision and capacity building material (leaflets, online material, guides and tools);
- participation in thematic working groups, exchange / study visits or thematic meetings in relation to the rights of applicants with diverse SOGIESC.

⁽¹¹³⁾ Particularly relevant in reception.



Related training courses

- The EUAA offers the training module '**Applicants with diverse SOGIESC**' targeting asylum and reception staff. It enables practitioners to understand the potential challenges and associated impact potentially experienced by LGBTIQ applicants in the asylum context, to evaluate how the needs of LGBTIQ applicants are addressed in the asylum context and to adopt a sensitive approach towards LGBTIQ applicants ⁽¹¹⁴⁾.
- IOM and UNHCR have jointly developed a **comprehensive training package on the protection of people with diverse SOGIESC**. The package addresses the organisation's personnel as well as the broader humanitarian community and covers a wide range of topics, including terminology, international law, communication, protection, assisted voluntary return and reintegration and refugee status determination, all with a focus on practical guidance for IOM and UNHCR offices and partner organisations ⁽¹¹⁵⁾.
- The Council of Europe has developed the self-paced online training module **LGBTI Persons in the Asylum Procedure**. The module is publicly available and targets legal professionals but can also be used by asylum and reception officers and other relevant actors ⁽¹¹⁶⁾.

5.4. Raising applicants' awareness on SOGIESC

This section focuses on how to raise awareness among all applicants (including heterosexual and cisgender applicants) vis-à-vis their behaviour towards LGBTIQ applicants.

Reception authorities should provide applicants with information relating to the reception conditions, including information specific to their reception systems as well as the applicants' rights and obligations in reception ⁽¹¹⁷⁾. Such type of information might be provided (in principle) in written, but also orally, e.g. through collective or individual information sessions. As part of the information provision, it is important to inform applicants of the right to be free from violence and discrimination, including due to their SOGIESC. In this respect, attention could be paid to the fact that discrimination based on SOGIESC (but also on other grounds, such as religion, ethnic origin, etc.) is forbidden in the EU ⁽¹¹⁸⁾.

At the same time, keep in mind that the effectiveness of activities, policies or measures aimed at reducing people's negative attitudes towards LGBTIQ people varies. It depends on the type of intervention, the circumstances (place, time, moment in people's life, etc.) and the quality of the implementation. For example, LGBTIQ beneficiaries of international protection could be

⁽¹¹⁴⁾ EUAA Training Module '[Applicants with diverse SOGIESC](#)'.

⁽¹¹⁵⁾ UNHCR-IOM, [SOGIESC and Migration Training Package](#), 2021.

⁽¹¹⁶⁾ Council of Europe, [HELP course on LGBTI Persons in the Asylum Procedure](#), 2023.

⁽¹¹⁷⁾ Article 5(1) RCD (2024).

⁽¹¹⁸⁾ Article 21(1) of the Charter:

Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited', as well as on several relevant national laws.

asked to share their story with the applicants, as this might help the latter empathise with them and have a more positive attitude. However, caution is needed, as it is possible that the applicants are unable to show empathy, for several reasons. In that case, such interventions might be counterproductive, cause harm and lead to unsafe situations for LGBTIQ people ⁽¹¹⁹⁾.

For this reason, it is recommended that, while applicants are still in the procedure, the focus of information should be on their behaviour as well as on rights and obligations. Interventions aimed at improving applicant's negative attitudes could better be implemented after an international protection status is received, as part of integration into society.



Points to remember

- Make sure that all applicants are informed at an early stage of the asylum procedure of the grounds on which they can claim asylum, in a simple and accessible language. This includes, among other reasons, the well-founded fear of persecution due to membership of a particular social group. In your information provision, you may provide examples of 'particular social groups' including persons with diverse SOGIESC, for the applicants' better understanding,
- When interpretation or cultural mediation is used during information provision, make sure that the interpreter knows the correct and appropriate, gender and SOGIESC-sensitive terms to use in both languages.
- Inform SOGIESC applicants of the existence of LGBTIQ organisations and make referrals, upon request.
- Develop SOGIESC-related information provision and raising awareness material in several languages and for diverse groups of applicants, such as children, disabled or illiterate people. Disseminate or display them in a variety of forms and as appropriate (e.g. information sessions, leaflets, posters, videos, etc.).
- Promote SOGIESC visibility (rainbow flag, symbols, etc.) and create safe spaces when dealing with LGBTIQ applicants. Try to be open, empathetic and without prejudice. See also Section [3.1. Creating safes spaces](#).
- Organise, deliver and/or participate in capacity building activities, such as workshop and training courses on SOGIESC, including information on the use of accurate terminology and adopting a non-biased and empathetic attitude towards LGBTIQ applicants.
- Make sure you are aware of the special procedural guarantees and the special reception needs of LGBTIQ applicants and how to implement them.
- Inform all applicants that discrimination, harassment, abuse or any other type of misconduct related to SOGIESC is prohibited and the violator will be subject to sanctions and/or prosecution.

⁽¹¹⁹⁾ Hanneke Felten, [Rainbows and refugees Verkennend onderzoek naar wat werkt bij het vergroten van de acceptatie van LHBT onder vluchtelingen, Kennisplatform Inclusief Samenleven](#), (Exploratory research regarding what works in enhancing the acceptance of LGBT refugees), 2016 (available in Dutch).

**Points to remember**

- Take immediate and proper action, including reporting and imposing sanctions, if discriminatory or violent acts against an applicant based on their SOGIESC occurs.
- Use well-established and evidence-based methods to improve applicants' negative attitudes towards LGBTIQ people to avoid causing more harm. Consult the applicants and with LGBTIQ-specialised professionals or organisations about the most appropriate methodology on a case-to-case basis.



6. Cooperation and coordination



A multi-stakeholder approach is required to coordinate efforts in enabling applicants with diverse SOGIESC to access their rights and have their special needs considered throughout the asylum pathway. As previously elaborated, these applicants may have experienced different risks and challenges in the country of origin, in transit and/or in the host country. It is impossible for one single stakeholder to be able to cover all the relevant needs of protection of these applicants (or of any applicant). Moreover, the needs in question are often greater than the options and resources available, thus strong cooperation and coordination is needed.

In view of the above, in this chapter we will explore various aspects of coordination and cooperation within the asylum context, **mainly addressing policymakers and managers**. Recommendations addressing all involved actors and functions in asylum are also highlighted below.

At national level, different stakeholders are involved at different stages of asylum, including policymaking, legislating, decision-making and at operational level. Stakeholders working on border protection (land, air and sea) and at a regional level (e.g. administrative regions, federal states and provinces) may also be involved. Similarly, in several Member States two distinct authorities are responsible for asylum processes and reception. More concretely, a few examples of stakeholders who would be usually involved in coordination and cooperation include asylum and reception authorities, local authorities, social workers, health practitioners, CSOs, border guards, police, academia, human rights organisations and think tanks.

In the context of asylum, you may often find yourself working at different levels of engagement. It is important to identify the relevant stakeholders that can allow you to reach solutions to address the needs of applicants with diverse SOGIESC. At a higher level, i.e. policymaking and legislating should be informed by evidence and address the specific needs, challenges and realities of applicants with diverse SOGIESC. Jurisprudence, research, reports and the recommendations of relevant UN treaties could support such efforts ⁽¹²⁰⁾.

The following considerations address **managers** and aim to promote coordination and collaboration at the different levels in the asylum context.

- **Capacity building (training).** You can promote, organise and facilitate training and capacity building opportunities for staff, especially when working directly with applicants. Such capacity building initiatives may also include or involve other interlocutors (either as facilitators or as attendees), such as agencies, authorities or other organisations specialised in SOGIESC and/or persons with special needs in asylum. A variety of training materials are available online (self-paced), along with others provided by the EUAA, international organisations, regional and national entities

⁽¹²⁰⁾ For example, the UN Office of the High Commissioner for Human Rights, [Independent Expert on sexual orientation and gender identity](#) has developed different recommendations as part of their mandate on how states should enable legislation and policies to prevent discrimination of LGBTIQ persons, including in the context of forced migration.



and CSOs ⁽¹²¹⁾. Consider the importance of staff attending refresher training courses and be cautious to prevent the overlapping of training activities (in terms of topics/themes) as this might have a negative impact on staff performance and welfare.

- **Information sharing.** Inform local authorities and other local actors about actions that promote the rights and well-being of applicants with diverse SOGIESC, raise awareness on key issues related to these applicants and identify potential synergies with other stakeholders. Moreover, and without prejudice to the laws and regulations on data protection, you should develop and maintain a system which allows the continuous sharing of need-to-know information between asylum and reception authorities, so that risks, vulnerabilities and needs are identified and managed in a timely and comprehensive manner.
- **Identification of needs and challenges.** Identify gaps, challenges, overlaps and bottlenecks in procedures related to applicants with diverse SOGIESC and implement policies and activities on how to address them, also involving other competent authorities and actors when relevant or necessary.
- **Mapping available services and resources.** Often, organisations at national or local level are competent or have resources to support with service provision or case management in relation to applicants with diverse SOGIESC. It is important to identify those actors and their respective areas of expertise and resources so that it is clear to all interested parties, including applicants ⁽¹²²⁾.
 - **Involve all relevant actors.** Communicate with local actors (e.g. CSOs working on SOGIESC), municipalities and the private sector to ensure that their concerns and priorities are heard. Discuss common areas of work and engagement with all relevant actors.
 - Establish **coordination mechanisms** with relevant stakeholders. Such mechanisms could have the format of working groups or regular meetings, focusing on or include the topic of working with persons with diverse SOGIESC in the context of asylum ⁽¹²³⁾.

The table provides additional recommendations and practical tips on how to promote synergies, cooperation and coordination, targeting different key actors and staff in asylum.

⁽¹²¹⁾ For more information on training and capacity building, see Section [5.3. Staff capacity building on SOGIESC](#).

⁽¹²²⁾ For example, ARDHIS has developed a [map](#) with a number of European associations that can assist LGBTIQ applicants in their application. Moreover, you can also find relevant organisations per country in the [ILGA-Europe Membership Mapping](#). Additionally, the EUAA has developed an interactive visualisation called [Who is Who in International Protection in the EU+: Civil Society Organisations](#). It presents the civil society organisations in EU+ countries directly involved in delivering services within asylum and reception systems.

⁽¹²³⁾ As an example of such coordination, Fedasil has worked jointly with IOM and CSOs on capacity building and to overcome challenges linked to taboos and awareness-raising on LGBTIQ issues.



**Recommendations for policymakers**

- Exchange information and data on SOGIESC in asylum and identify common issues of concern with relevant authorities and organisations, including CSOs, to plan and coordinate effective policy and regulatory reforms in this field.
- Support advocacy efforts and initiate legislation reform (i.e. on improvements to the asylum system) that promote the actual implementation of high standards in asylum and reception and the enjoyment of the rights of applicants with diverse SOGIESC throughout the asylum pathway.
- Promote case management review and capacity building of policymakers in cooperation with institutions and agencies specialised on SOGIESC.

**Recommendations for managers**

- Coordinate and cooperate with relevant authorities, organisations and other institutions to improve services, based on feedback received from applicants through established feedback mechanisms.
- Schedule information debriefings on selected relevant topics for applicants with diverse SOGIESC, inviting other state actors, international/regional organisations and CSOs working on the topic.
- Organise team building events for the staff of asylum/reception facilities. Invite other counterparts to join selected activities to foster collaboration, coordination and teamwork.
- Create synergies with relevant stakeholders to jointly advocate for resources (financial, human resources) or join forces in identifying funding opportunities to improve conditions of asylum/reception facilities.

Useful links

The SOGICA project has developed a dedicated section ⁽¹²⁴⁾ with lists of organisations working on SOGIESC and/or asylum issues, on a national, regional (including EU) or international level.

⁽¹²⁴⁾ SOGICA project, 'Useful links', available at <https://www.sogica.org/en/useful-links/>.



7. Data management and statistics



Data collection is a fundamental part of planning, analysis, policy and advocacy efforts and the topic of SOGIESC in asylum is no exception. Reliable and comparable data can provide evidence of the nature and extent of figures, trends as well as challenges in the field of asylum. The data can indicate the policy, operational, capacity building and legislative needs in this regard.

This chapter elaborates on the importance for asylum authorities of collecting data and producing statistics in a reliable and comprehensive manner. It further provides examples of the type of data that could be collected and made public in the form of statistics, as well as how this process can be done in compliance with the relevant EU law.

National asylum authorities collect and share data on various aspects of the asylum system. Furthermore, official EU statistics include information on the overall number of claims and decisions, nationality of applicants and outcome of procedures (including type of status granted) ⁽¹²⁵⁾.

The production of reliable and comparable statistics in asylum on **the grounds of SOGIESC** at national or regional level could be beneficial in facilitating effective planning and policy efforts (including in reception) and enhancing the visibility of the issues affecting LGBTIQ applicants, thus reducing existing barriers towards their effective protection and inclusion and to the efficient examination of their claims.

Statistics and estimates of SOGIESC-based claims

Rough estimates produced in 2011 suggest that there are around 10,000 LGBTIQ applicants in the **EU** each year ⁽¹²⁶⁾.

The German LGBTIQ organisation Schwulenberatung estimated that there were around 3,500 applicants with diverse SOGIESC in **Berlin** in 2016 ⁽¹²⁷⁾.

⁽¹²⁵⁾ For more information, see EUROSTAT, 'Migration and asylum – Asylum', webpage for statistics available at <https://ec.europa.eu/eurostat/tgm/table.do?tab=table&init=1&language=en&code=sdg-10-8-1> and the EUAA Data Analysis and Research, webpage available at <https://euaa.europa.eu/asylum-knowledge/data-analysis-and-research> which includes data on access to procedure, reception system, first instance determination, Dublin indicators, determination in appeal or review and resettlement. EU official statistics are produced by Eurostat in line with [Regulation \(EU\) 2020/851](https://eur-lex.europa.eu/eli/reg/2020/851/oj) of the European Parliament and of the Council of 18 June 2020 amending Regulation (EC) No 862/2007 on Community statistics on migration and international protection (OJ L 198, 22.6.2020) but are not directly collected by Eurostat. Eurostat processes aggregated data from national authorities in line with jointly agreed definitions and technical specifications that EU+ countries follow for reporting at EU level and may differ from their national practice.

⁽¹²⁶⁾ Sabine Jansen and Thomas Spijkerboer, *Fleeing Homophobia, Asylum Claims Related to Sexual Orientation and Gender Identity in Europe*, COC Netherlands / Vrije Universiteit Amsterdam, 2011, pp. 15-16. According to the report's authors, this is an annual figure, not a one-off 2010 figure. The authors write: *the Belgian percentage should be taken as a more reliable indicator of the number of LGBTI claimants. In addition to the latter, the 'hidden' number has to be reckoned with. Based on these assumptions a crude estimate is that there are up to 10.000 LGBTI related asylum applications in the European Union annually* p.16.

⁽¹²⁷⁾ Thomson Reuters Foundation, *Gay rights group to open center for LGBT asylum seekers in Berlin*, 22 January 2016.



Outside the EU, according to the United Kingdom (UK) Home Office statistics, there were 1,212 applications lodged in the **UK** in 2019 and 1,012 in 2020, where sexual orientation formed part of the basis for the claim, representing 3 % of all applications in both years ⁽¹²⁸⁾.

7.1. The relevance of producing asylum statistics in relation to SOGIESC

The production of timely and comparable statistical information is critical to secure the transparency and accountability of the asylum system as well as to provide authorities, policy makers, organisations, legal practitioners, advisors and academics with useful data. This is part of the quality management measures that should inform any asylum system ⁽¹²⁹⁾.

More reliable and comparable statistics on SOGIESC applications, in terms of **procedures and decision-making**, would allow the authority to:

- quantify and compare recognition rates at first/administrative and judicial/appeal levels;
- compare the processing and decision-making of SOGIESC applications with applications on other grounds, wherever such data is available;
- more thoroughly study the adequacy and possible bias of decision-making in relation to SOGIESC applications;
- plan and design the reception system and services, including the provision of special reception conditions (e.g. housing, healthcare) for these applicants and contingency planning ⁽¹³⁰⁾;
- prepare for adjustments in light of special procedural guarantees relevant for these applicants (consult the [Practical guide on applicants with diverse SOGIESC – Examination procedure](#), Chapter 2. Special procedural guarantees) ⁽¹³¹⁾.

All these potential uses of statistics related to SOGIESC applications are compatible with data protection regulations and the applicants' fundamental rights, particularly the rights to respect for private and family life (Article 7 Charter), protection of personal data (Article 8 Charter) and non-discrimination (Article 21 Charter). These uses will be compatible if data collection and production of statistics are done in a way that renders it impossible to identify any individual

⁽¹²⁸⁾ For 2019 figures, see UK Home Office, [Experimental Statistics: Asylum claims on the basis of sexual orientation](#), updated 24 September 2020; for 2020 figures, see UK Home Office, [Experimental Statistics: Asylum claims on the basis of sexual orientation](#), updated 26 August 2021.

⁽¹²⁹⁾ For more information, see Danisi, Dustin, Ferreira and Held, [Queering asylum in Europe – legal and social experiences of seeking international protection on grounds of sexual orientation and gender identity](#), IMISCOE Research Series, Springer, 2021, Chapters 4 (Section 5) and 11 (Section 3.1).

⁽¹³⁰⁾ Although SOGIESC-related data and statistics can be significantly useful towards the design, planning and provision of reception conditions, figures should be used with cautiousness considering that an indefinable number of LGBTIQ applicants might not base their asylum claim on SOGIESC for several reasons (e.g. fear of stigma, internalised homo/bi/trans/intersex- phobia, due to being persecuted on other grounds too) or they may disclose later and after they have already spent some considerable time in reception.

⁽¹³¹⁾ Apply caution, however, as there might be LGBTIQ applicants who may be entitled to special procedural guarantees though they have not made a SOGIESC-based claim or may have been granted international protection for other reasons.



applicant based on such statistics (see Section [7.2. Ways of processing data on SOGIESC](#) for further details).

Note on UNHCR's recommendation

In the 2021 Global roundtable on protection and solutions for LGBTIQ+ people in forced displacement (co-organised by the UNHCR and the United Nations Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity) ⁽¹³²⁾, the following recommendation, amongst others, was made to stakeholders.

Commit to building a solid evidence base by undertaking ethical, systematic and disaggregated data collection, management and reporting of forcibly displaced and stateless LGBTIQ+ persons, in order to verify statistical existence of and protection and solutions trends among LGBTIQ+ displaced and stateless persons. Confidentiality, data integrity and data protection safeguards are necessary.

Relevant disaggregation

The routine questioning of the SOGIESC of all applicants would be unnecessary and foremost, inappropriate. However, in case of SOGIESC-based applications, authorities can compile statistics based on the following variables.

- **SOGIESC as an asylum ground:** this can be done as a sub-category of the broader category of 'particular social group', if that is the case in the particular application.
- **Other grounds** relevant for the same application: this can help identify the significance of international protection claims on multiple grounds.
- **Data** that captures numbers of **a) sexual orientation, b) gender identity and expression** and **c) sex characteristics** or for **each group under LGBTIQ**. This can allow for better tailoring of special needs in asylum and reception and analysis of the outcomes of the applications for each sub-group ⁽¹³³⁾.
- **Country of origin** (or country of former habitual residence in the case of stateless applicants) ⁽¹³⁴⁾.
- **Outcome of the application:** rejection or recognition, including type of status granted or **reason for rejection** (e.g. lack of credibility, risk of persecution, internal protection alternative).

⁽¹³²⁾ UNHCR-United Nations Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity, [2021 Global roundtable on protection and solutions for LGBTIQ+ people in forced displacement, Summary Conclusions](#), 2021, p. 27.

⁽¹³³⁾ Furthermore, remaining restricted to a gender binary approach in data collection (for example, by recording only men/women) excludes other genders and limits the ability to provide proper special procedural guarantees and special reception conditions to those entitled, as per their individual needs and characteristics, including SOGIESC (see also Samuel Ballin and Irene Manganini, '[Fixed Categories vs. Fluid Identities: How Are Queer Voices Silenced in the Theory and Practice of Asylum Law?](#)', OxMo Vol. 11 No. 1, pp. 20-28 (especially pp. 24-25)).

⁽¹³⁴⁾ With regard to recording the country of origin, it is worth noticing that if the number of data objects is too small and applicants would thus be identifiable, then the authorities should not generate data nor publish the relevant statistics.



The collection of these data can take place at several stages, depending on each national context:

- At the stage of registering the application.
- Application lodging stage. This will allow for analysis of the outcomes of these applications, including likelihood of recognition, proportion of different outcomes, proportion of appeals against negative decisions and likelihood of recognition at each appeal level.
- At the stage of the personal interview.

To this end, national authorities can design ICT systems that include the recording of the data detailed above. Such systems should be designed as to ensure adequate protection of the data, taking into account the particularly sensitive nature of SOGIESC, and guarantee that any statistic produced on the basis of such data is non-personalised and disaggregated.

7.2. Ways of processing data on SOGIESC

Some asylum authorities may not process statistics about SOGIESC-based applications on account of confidentiality or data considerations, often because of constraints imposed by domestic and/or European legal frameworks. This section elaborates on two de-identification processes that present clear benefits as far as the protection of the applicants' fundamental right of privacy is concerned: pseudonymisation and anonymisation. Anonymisation should be preferred where possible; however, where not feasible, pseudonymisation can also be applied. Both processes can be implemented in a respectful manner and in compliance with relevant EU Law.

7.2.1. Pseudonymisation

According to the EU General Data Protection Regulation (GDPR) ⁽¹³⁵⁾, pseudonymisation refers to

the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person.

Prior to any pseudonymisation, there needs to be a legal basis allowing for the processing of the personal data in first place. In the case of national asylum authorities, they may rely on e.g. the need to process personal data to perform a task carried out in the public interest (Article 6(1), point (d) GDPR). At the same time, it is important to keep in mind constitutes a 'special category of personal data' (i.e. data concerning a person's gender identity or sexual

⁽¹³⁵⁾ Article 4(5) [Regulation \(EU\) 2016/679](#) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016).



orientation). Therefore, the requirement of Article 9 GDPR must also be met. The article refers to processing that can be done

for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject ⁽¹³⁶⁾

as well as that the processing

is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes (...) which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject ⁽¹³⁷⁾.

It is also important to note that processing for statistical purposes may be subject to specific rules set by Member State law (see Article 89 GDPR). Asylum authorities should therefore liaise with relevant authorities on national level (e.g. the national data protection authority) to understand whether specific rules do exist.



Points to remember

- Processing data on SOGIESC-based applications should be done in accordance with the applicable legal framework, in a manner proportionate to the aim pursued, in respect of the essence of the right to data protection, and by providing suitable and specific measures to safeguard the fundamental rights and the interests of the data subject (Article 9(2), point (g) GDPR).
- National asylum (determining) authorities should coordinate and consult with national relevant authorities to find out whether specific national legislation or rules are applicable on processing data for statistical purposes.

7.2.2. Anonymisation

Anonymised (or anonymous) data is data that has been completely de-identified from the original data subject. Unlike pseudonymous data, anonymous data cannot be reversed or reconnected to the original individual. Anonymous data removes personal identification from personal data entirely so that it can be used more freely.

⁽¹³⁶⁾ Article 9(2), point (g) GDPR.

⁽¹³⁷⁾ Article 89(2) GDPR.



The most practical and useful type of anonymised data that can be used for SOGIESC-based applications is **aggregated statistics** ⁽¹³⁸⁾ on SOGIESC ⁽¹³⁹⁾.

Anonymous data is impossible to work with if the data being used needs to be eventually reconnected to the original individual. Anonymous data is no longer considered personal data, and because of this, it is not subject to GDPR.

For that reason, national authorities are recommended to opt for this type of de-identification (anonymisation instead of pseudonymisation), so that they avoid any constraints or challenges regarding GDPR compliance.

State practices ⁽¹⁴⁰⁾

Belgium is the only current EU member state that has had experience in producing statistics on SOGIESC applications but no longer publishes such statistics. **Norway** has also done manual counts of SOGIESC-based applications for statistical purposes in the past ⁽¹⁴¹⁾.

The **UK** is the only (non-EU) European country that produces statistics regarding SOGIESC-based applications, even if on an experimental basis and limited to sexual orientation.

In some non-European countries such as **Canada**, it is also possible to produce statistics on the outcomes in different types of unpublished refugee claims based on data provided by Canada's Immigration and Refugee Board ⁽¹⁴²⁾. This includes breaking down data into categories such as political opinion, gender, sexual orientation, religion, race and ethnicity.

⁽¹³⁸⁾ Aggregation is a method of grouping individuals with other similar individuals that share aspects of their personal data while removing certain identifying characteristics.

⁽¹³⁹⁾ Outside the EU, for example, the UK asylum authorities have been producing aggregated statistics on asylum claims based on sexual orientation since 2017. For the 2022 data, see UK Home Office, '[Asylum claims on the basis of sexual orientation 2022](#)', Updated 14 November 2023. See also House of Commons, Women and Equalities Committee, '[Equality and the UK asylum process, Fourth Report of Session 2022-23](#)', Conclusions and Recommendations: Recommendation 2, 27 June 2023, p. 71:

Experimental statistics on sexual orientation-based claims are a good start and we welcome the Home Office's intention to increase its collection of data on protected characteristics and UN Convention protection grounds. Data collection and transparency is the vital first step needed to ensure that inequalities in the process can be identified and addressed. We recommend the Home Office collect and publish data in relation to claims, initial decisions, appeals and final outcomes disaggregated by: UN Convention ground; whether the claim included sexual and gender-based violence and other abuse; and the protected characteristics of claimants.'

⁽¹⁴⁰⁾ FRA, '[Monthly Report, March 2017: Current migration situation in the EU: Lesbian, gay, bisexual, transgender and intersex asylum seekers](#)', p. 3 states that 'data on the grounds on which asylum claims are based are generally not recorded (by the Member States)'. The report includes a table with figures of applicants with claims linked to sexual orientation or gender identity in 2016 provided by CSOs and covering 14 Member States (Table 1). The figures are significant, even though they are only estimates and cannot reflect the actual numbers of SOGIESC-based claims made in those countries.

⁽¹⁴¹⁾ On statistical information on SOGIESC applications in Europe, see the European Migration Network, '[Ad Hoc query on NL AHQ on national asylum policies regarding LGBT-asylum seekers](#)', requested May 2016.

⁽¹⁴²⁾ Sean Rehaag, '[Claim Types in Canada's Refugee Determination System: An Empirical Snapshot \(2013-2021\)](#)', [Refugee Law Lab Working Paper](#), 29 January 2023.



Note on UNHCR's practice

UNHCR has developed and uses its own registration and identity management system (proGres) as well as the relevant Registration Guidance which, among other information, facilitates the recording of information relevant for certain aspects of SOGIESC, relationships of same-sex partners and specific protection needs, based on the voluntary disclosure and informed consent of the individuals ⁽¹⁴³⁾.



Useful publication

The International Recommendations on Refugee Statistics is a manual developed by the Expert Group on Refugee and Internally Displaced Persons Statistics, which comprises of members of national authorities and relevant international and regional organisations responsible for statistics on forced displacement, including the EUAA. It provides a set of specific recommendations that countries and international organisations can use to improve the collection, collation, disaggregation, reporting and overall quality of statistics on forcibly displaced populations. The recommendations are intended to help improve national statistics on the stocks and flows and characteristics of refugee and refugee related populations and to help make such statistics comparable internationally ⁽¹⁴⁴⁾.



Points to reflect upon (for managers and policymakers)

- Does my team/authority process data on SOGIESC for the purpose of assessing applications, including to compile reasons for their rejection or acceptance?
- If not, can we start doing it? What changes to our ICT systems would be necessary? Which stakeholders would I need to get involved to introduce these changes?
- In designing the infrastructure for processing data on asylum procedures and decision-making on applications based on SOGIESC, have we respected applicable laws and regulations?

⁽¹⁴³⁾ UNHCR, [Protecting LGBTIQ+ people in situations of forced displacement: A Stocktaking on UNHCR progress since the 2021 Roundtable](#), June 2023, Section 3.3. Registration and safe data collection.

⁽¹⁴⁴⁾ Expert Group on Refugee and Internally Displaced Persons Statistics, [International Recommendations on Refugee Statistics](#), March 2018.





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