



ANNUAL REVIEW

OF THE HUMAN RIGHTS SITUATION OF LESBIAN,
GAY, BISEXUAL, TRANS AND INTERSEX PEOPLE
IN EUROPE AND CENTRAL ASIA

2021



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Design & layout: Maque Studio, **www.maque.it**

ISBN 978-92-95066-11-3



Co-funded by the Rights Equality and Citizenship (REC) programme 2014-2020 of the European Union
This publication has been produced with the financial support of the Rights Equality and Citizenship (REC) programme 2014-2020 of the European Union. The contents of this publication are the sole responsibility of ILGA-Europe and can in no way be taken to reflect the views of the European Commission.



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Acknowledgements

This publication would not have been possible without the voluntary work of human rights defenders in the 54 participating countries.

ILGA-Europe would like to acknowledge and extend our gratitude to the following individuals who have contributed towards the completion of this edition of the Annual Review:

- Member organisations of ILGA-Europe, country experts and other contributors for all their time and dedication: Sidita Zaja, Xheni Karaj, Livia Zotrija, Ervola Osmanaj, Kevin Jasini (Albania); Anna Agualeles, Claudia Call, and Rocio Soler (Andorra); Lilit Martirosyan, Mamikon Hovsepyan, Lilit Avetisyan, Hasmik Petrosyan, Luiza Vardanyan and others (Armenia); Tobias Humer, Thiemo Bischof, Eva Fels, Tinou Ponzer, Luan Pertl, and Maria Preinreich (Austria); Durna Safarova, Samad Ismailzadeh, Gulnara Mehdiyeva, Vahid Aliyev, and Cavid Nabiyeu (Azerbaijan); Viachaslau Bortnik and Alisa Sarmant (Belarus); Yves Aerts, Lozano Lafertin, Joz Motmans, and Aurel Werler (Belgium); Vladana Vasić, Emina Bošnjak, Ajna Jusic, and Darko Pandurevic (Bosnia & Herzegovina); Denitsa Lyubenova, Lilly Dragoeva, Radoslav Stoyanov, and Simeon Vasilev (Bulgaria); Daniel Martinovic, Asmira Topal, and Franko Dota (Croatia); Costa Gavrielides, Erman Dolmaci, Monica Panayi, Kuzey Eroğlu, and Dervish Taskiranlar (Cyprus); Adéla Horáková, Jáchym Kolouch, Viktor Heumann, and Bára Soukupová (Czechia); Inge Toft Thapprakhon, Nico Miskow Friborg and fellow activists, and Søren Laursen (Denmark); Aili Kala (Estonia); Kerttu Tarjamo and Tanja von Knorring (Finland); Arnaud Gauthier-Fawas, Elisa Koubi, and Simon Jutant (France); Ketí Bakhtadze, Salome Gurgenidze, Ekaterine Aghdgomelashvili, Levan Berianidze, and Mariami Kvaratskhelia (Georgia); Arn Sauer, Klaus Jetz, Kalle Huempfer, Ins Kromminga, Philipp Braun and Noah Rieser (Germany); Parvy Palmou and Marina Galanou (Greece); Tina Kolos Orbán and Tamás Dombos (Hungary); Daniél E. Arnarsson, Kitty Anderson, and Ugly Stefania Kristjónudóttir Jónsdóttir (Iceland); Moninne Griffith, Sinead Keane, Gordon Grehan, and Matt Kennedy (Ireland); Yuri Guaiana and Matteo Bonini-Baraldi (Italy); Anatoly Chernoussov, Daniyar Sabitov, and Aleksandr Ksan (Kazakhstan); Liridon Veliu, Arbër Nuhiu, Arben Fejzaj, and Blert Morina (Kosovo); Nadira Masiumova and Suleyma Kelgembayeva (Kyrgyzstan); Kaspars Zalitis, Emily, and Tims Treikulis (Latvia); Amos Kaufmann (Liechtenstein); Monika Antanaitytė and Tomas Vytautas Raskevičius (Lithuania); Roby Antony, Enrica Pianaro, and Andy Maar (Luxembourg); Cynthia Chircop, Gabi Calleja, and Joe Grima (Malta); Angelica Frolov (Moldova); Danijel Kalezić, Jelena Colakovic, Jovan Džoli Ulićević, and John Barac (Montenegro); Philip Tijsma, Bente Keulen, Miriam Van der Have, and Lis Dekkers (the Netherlands); Jovana Jovanovska Kanurkova, Antonio Mihajlov, Dragana Drndarevska, Natasha Boshkova, and Elena Petrovska (North Macedonia); Elsa Skjong and Luca Dalen Espseth (Norway); Karolina Gierdal, Vyacheslav Melnyk, Justyna Nakielska, and Julia Kata (Poland); Marta Ramos (Portugal); Iustina Ionescu, Florin Buhuceanu, and Teodora Roseti-Ion-Rotaru (Romania); Jonny Dzhibladze, Aleksandr Voronov, Olga Okhotnikova, and Darya (Russia); Marco Tonti and Paolo Rondelli (Arcigay Rimini "Alan Turing") (San Marino); Jovanka Todorović, Dragoslava Barzut, Stefan Šparavalo, and Maja Šenk (Serbia); Martin Macko and Michaela Dénešová (Slovakia); Lana Gobec and Linn Julian Koletnik (Slovenia); Alejandro Hernandez, Alfonso Vicente, Ruben Lopez, Leo Mulió Alvarez, and Livan Soto Gonzalez (Spain); Lars Jonsson, Cal Orre, Edward Summanen, and Frank Berglund (Sweden); Alecs Recher (Switzerland); Akmaljon Aminjonov, Shuhrat Saidov (Tajikistan); Marsel Tuğkan Gündoğdu and Murat Köylü (Turkey); Farkhad Musazov (on Turkmenistan); Andrii Kravchuk and Inna Iryskina (Ukraine); Tim Hopkins, Alexa Moore, James Morton, Sahaf Hardouf, and Josh Bradlow (United Kingdom); and human rights defenders based in and/or working on Uzbekistan,
- Regional network partners Transgender Europe (TGEU), the Eurocentralasian Lesbian* Community (EL*C), and the LGBTI Equal Rights Association for the Western Balkans and Turkey (ERA), and namely Jonas Hamm and Leo Mulió Alvarez, Leila Lohman and Ilaria Todde, Amarildo Fecanji and Biljana Ginova for their thematic and regional expert input,
- Katrin Hugendubel, Cianán Russell, Akram Kubanychbekov, and Belinda Dear for drafting institutional chapters, and for the indispensable support of Sebastián Aguilar Betancurt, Kseniya Kirichenko, and Gabriel Galil (ILGA World),
- Board and staff members of ILGA-Europe for research, drafting and editing work, namely Arpi Avetisyan, Belinda Dear, Brian Finnegan, Katrin Hugendubel, Akram Kubanychbekov, Iulia Marcinschi, Ana Muñoz Padrós, Evelyne Paradis, Laura Piazza, Cianán Russell, Anna Shepherd, Anastasia Smirnova, Björn Van Roozendaal, and Manon Yzermans,
- Dodo Karsay, for compiling country information, writing and editing the overall Annual Review in liaison with national experts,

and others who we may have mistakenly omitted in spite of their contributions towards this edition of the Annual Review. When referencing this report, we recommend the following citation: Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia 2021. Brussels: ILGA-Europe.



Introduction

Welcome to the tenth edition of ILGA-Europe's *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe and Central Asia*. The publication includes events that occurred between January and December 2020. It provides a snapshot of what happened during the year, at national, regional and international levels, and it documents progress and trends regarding the human rights situation of LGBTI people.

While the entire Annual Review is available online, information on each country and institution can be accessed separately, via ILGA-Europe's website and our updated *Rainbow Europe web module*. In the Rainbow Europe module, you will also find information on each topic separately.

Once again, we must stress that this document is not an exercise in apportioning blame. ILGA-Europe's goal is not to point fingers at specific countries. Instead, this publication intends to serve as a tool for the exchange of best practices and policies, and as an open invitation for enhanced cooperation between governments and LGBTI civil society.

ILGA-Europe want this publication to meet our readers' expectations and needs, and welcome any suggestions for improvement.

We hope that you will find this edition of the *Annual Review* informative and useful.

ILGA-EUROPE'S ANNUAL REVIEW TEAM
FEBRUARY 2021



A note on data collection and presentation

This is our tenth Annual Review and we always strive to develop our rigorous data collection system. However, a number of limitations remain.

The use of terminology around LGBTI issues is often not harmonised across Europe and Central Asia. Nonetheless, all information within the Annual Review has been verified using original documents and the best available local knowledge. Where possible, information was checked against institutional and national reports, and reliable news sources.

For comparative reasons, the language within the Annual Review has been kept in line with ILGA-Europe's standards, and moves away from country-specific legal terms that may have a different meaning elsewhere. At the same time, we respected the variety of terms used by LGBTI communities to self-identify in different countries. For example, this is why the Annual Review does not exclusively refer to LGBTI, but also to 'LGBT', 'LGBTQ' and other formulations.

Of course, the Annual Review cannot cover every development in all 54 countries in intricate detail. When the development was not adequately reported, or the reports were confusing or contradictory, ILGA-Europe verified them with national experts' inputs. They are independent human rights defenders or legal experts in each country.

We have also collaborated with regional LGBTI NGO's for their expertise on particular sub-regions or specific work areas such as trans rights, intersex rights or rainbow families. In this unprecedented period, country experts run the extra mile while navigating lockdowns, personal losses, community emergencies, additional workloads and stress, and/or loss of funding. We hope this Annual Review reflects the difficult year so many of our frontline LGBTI activists have had.

DO YOU HAVE QUESTIONS? REACH US OUT AT [INFO@ILGA-EUROPE.ORG](mailto:info@ilga-europe.org)



Highlights, Key Developments and Trends

There is a message emerging from our *10th Annual Review of the Human Rights Situation of LGBTI People in Europe and Central Asia* that, given the impact on communities of the unprecedented global events of 2020, is unsurprising, yet at the same time is a glaring clarification that progress we have taken for granted in many ways is not only increasingly fragile, but particularly vulnerable to exploitation by anti-human rights forces.

The COVID-19 pandemic and its consequences have highlighted all the gaps in terms of lived realities of LGBTI people across Europe and Central Asia. In reports from country after country, we see a stark rise in **abuse and hate speech** against LGBTI people; many who became vulnerable to homelessness have been forced to move back in to hostile family and community situations; LGBTI organisations have had to skew their work towards provision of basic necessities like **food and shelter** while many governments leave LGBTI people out of their relief packages; and there has been a resurgence of authorities and officials using LGBT people as scapegoats while authoritarian regimes are empowered to isolate and legislate without due process.

At the same time, this report clarifies that **the way we define progress is evolving**. In a lot of countries there are still more progressive laws on the books than there were five years ago, but in too many places we're still waiting for those laws to translate into real change in the lived experience of LGBTI people. While more actors in the political realm have begun to voice the need to take bolder action so that lived experiences become more in line with legislative progress, for the time being we are observing **more people turning to the courts** for the recognition of their human rights, or for the clarification of existing legislation that is meant to protect them. Meanwhile, in a substantial number of countries, legislative change is lagging, stagnant or backsliding.

Drilling down further, this report shows a significant growth of opposition towards trans rights across Europe, and this is beginning to have a wide and negative impact on **legal gender recognition (LGR)**. There is regression in Austria, Croatia, Finland, Hungary, Lithuania, Russia, Slovakia and Slovenia and the UK, and stagnation in Germany, Andorra, Cyprus, Czechia, Georgia, Germany, Kosovo, Montenegro, North Macedonia, and Sweden. In many of these countries, opposition forces have become louder, pretending that advancing the protection against discrimination and self-determination for trans people would harm women's rights or 'the protection of minors'. While there are some countries making progress in terms of self-determination across the age-spectrum, where there is progress reported in LGR, it excludes minors.

There has also been a substantial rise in **hate speech**, both from official sources, in the media and online. The trend of politicians verbally attacking LGBTI people has grown sizeably and spread in countries including Albania, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Czechia, Estonia, Finland, Hungary, Italy, Kosovo, Latvia, Moldova, North Macedonia, Poland, Russia, Slovakia, and Turkey; and religious leaders have propagated hate-speech in Belarus, Greece, Slovakia, Turkey and Ukraine, many of them directly blaming LGBTI people for COVID-19. Hate speech on social media has risen in Belgium, Bulgaria, Croatia, Czechia, Malta, Montenegro, Russia and Turkey, and in the general media in Slovenia and Ukraine, while hate speech is an ongoing issue in Georgia, Ireland, Netherlands, North Macedonia, Portugal, Romania, Slovakia, Spain and the UK. Many courts and governmental institutions are beginning to have a larger awareness of this growing trend, and beginning to talk about regulating online hate speech, including on the EU level.

For much of this annual report's ten years, reporting on **family rights** has generally focused on same-sex partnership registration or marriage rights and in this context there continues to be stagnation in several countries, including Andorra, Bulgaria, Czechia, Estonia, Latvia, Lithuania, Romania, Serbia and Slovakia. However, the growing trend is that more countries are moving on parenthood rights rather than partnership rights, either positively or negatively, taking the focus away from LGBTI rights themselves. Markedly in 2020, Montenegro became the first Western Balkans country to introduce civil partnership; while in Serbia the government promised steps toward introducing civil partnership in 2021. Switzerland and Northern Ireland (UK) both introduced marriage equality.

Annual Pride events have always been part of this report under the **Freedom of Assembly** heading, but this year, due to the COVID-19 lockdowns, Prides were cancelled all across Europe. The absence of Pride events matters not just as a test of free



assembly, but because of the potential longer-term impact on the visibility and presence of LGBTI people and communities in the public space, which will only be seen as we move into the years beyond the pandemic.

Having said that, attacks on freedom of assembly continue to be a growing trend. Demonstrators were detained in Azerbaijan; there was a brutal crackdown in Belarus for months, including arrests, detention, violence, and torture of LGBTI people; events were attacked or disturbed by extremists in Bulgaria; in France police brutality against protests rose; Greece denied a permit for LGBT police conference to be hosted; and in Poland anti-LGBT and anti-abortion rallies were rampant, while activists were arrested. In Russia activists were detained; in Turkey there are ongoing court cases against peaceful Pride marchers and other cases against human rights defenders, and in Ukraine the Odessa Pride event was attacked. On a positive note, courts struck down bans on three Pride marches in Turkey last year.

Overall there has been a **crackdown on democracy and civil society**, and not just in Poland and Hungary, which made all the headlines in 2020. We are seeing this in Turkey, Azerbaijan, and across Central Asia. Contributors to this report in several countries have expressed fears of their governments following in the footsteps of Poland and Hungary. Pending legislation in Russia to limit the work of NGOs takes the Russian propaganda law, which has been instrumental in influencing crackdowns in other countries, one step further.

In Central Asia, LGB rights are in stagnation, while trans rights are backsliding. In Kazakhstan we saw a step backwards in LGR, when legislators introduced a discriminatory norm in the healthcare law, raising the age limit for trans healthcare access from 18 to 21 and excluding those with a mental health or “behavioral disorder” diagnosis. Similarly in Kyrgyzstan, a new version of the law “On acts of civil status” came into force in autumn, erasing provision on LGR and making it no longer possible for trans people to change their legal gender marker.

At the same time, in Tajikistan, Uzbekistan and Turkmenistan, we see windows of opportunity for advancing LGBTI rights: inclusion of SOGIESC in the anti-discrimination bill currently being drafted in Tajikistan, and for the decriminalisation of consensual same-sex relations in Turkmenistan and Tajikistan, as both countries are in the process of revising their Criminal Codes.

What is surprisingly absent in this latest review, but which ILGA-Europe knows in an important conversation for many LGBTI groups, is a focus on **intersectionality** within LGBTI communities and in our wider society. While many people within the movement are talking about intersectionality, and taking steps to work on intersecting inequalities that affect LGBTI people, very few groups articulate their commitment to intersectionality in the public sphere. For example, while we know from our work that many LGBTI activists took part in the Black Lives Matter (BLM) demonstrations in 2020 (as the few mentions in this report suggest), few connect their support to the BLM movement to their own work, for example on police violence against LGBTI people, which is a topic identified in this Review.

Beyond LGBTI organisations, we have yet to see national authorities adopting specific measures that would take into consideration the realities of LGBTI people who experience exclusion because of other aspects of their lives - be it their race, their ability, their faith, to name a few. One notable exception in 2020 is the **EU LGBTIQ Equality Strategy 2020-2025**, published in November, which explicitly adopts an intersectional approach, and which will serve as a model for national governments to follow.

This overview only focuses on some particular trends and learnings we have pulled from the wealth of information our *Annual Review* pulls together, with the help of committed country experts across Europe and Central Asia. There would not be space to cover the many other trends and learnings to be gleaned from this report. This 2020 review of the human rights situation for LGBTI people in Europe and Central Asia is a stark reminder that achieving equality in both law and real life is a multi-layered, non-linear and long-term endeavour. Forgetting the fragility of the progress makes us vulnerable, while seeking to see and understand the complexity makes us all better equipped to continue to advance towards our goals.





European Union

ACCESS TO GOODS AND SERVICES

The EU LGBTIQ Equality Strategy (2020-2025), adopted in November, reaffirms the European Commission's (EC) commitment to ensure EU-wide protection against discrimination by working towards the adoption of the horizontal non-discrimination directive, and initiating an exchange of good practices on protection from discrimination on grounds of sexual orientation, gender identity and expression, and sex characteristics (SOGIESC) in Member States.

ASYLUM

On 23 September, the EC published its proposal for a New Pact on Migration and Asylum, which include revisions to the Reception Conditions Directive, the Qualification Directive and the Return Directive.

As part of its efforts to improve implementation of EU asylum policies relating to LGBTI people, the European Asylum Support Office (EASO) organised two online webinars on identification, outreach and reception of LGBTI applicants for members of the Vulnerable Expert Network, bringing together civil society, experts and Member states.

As part of the EU LGBTIQ Equality Strategy (2020-2025), the EC commits to organising good practice exchange between Member States in the area of asylum, focusing on safe reception, protection standards and assessment of applications of LGBTIQ refugees, and for EASO to improve training for protection officers and interpreters on assessment.

BIAS-MOTIVATED SPEECH

On 22 June, the EC published the results of its fifth evaluation of the voluntary 'Code of Conduct on countering illegal hate speech online', including hate speech targeting people on grounds of sexual orientation and gender identity (SOGI) on Facebook, Twitter, YouTube, Instagram and Jeuxvideo.com. Hate speech targeting sexual orientation was most commonly reported (33.1%) and had risen compared to 15.6% reported in 2019. In September, the EC expanded the scope of the Code of Conduct to include TikTok.

In December, the Commission proposed an ambitious set of new rules for the digital space, including social media, online marketplaces and other online platforms that operate in the EU: the Digital Services Act and the Digital Markets Act. Under the Digital Services Act, EU citizens will be able to notify illegal content, including hate speech, that they encounter and contest the decisions made by online platforms when their content is removed.

In the frame of the EU LGBTIQ Equality Strategy, the EC committed to putting forward a proposal to extend the list of EU crimes to cover hate crimes and hate speech on the grounds of sexual orientation, work on the Digital Service Act and the full implementation of the Audiovisual Media Services Directive and the EU strategy on victim's rights, as well as funding opportunities in the area.

BIAS-MOTIVATED VIOLENCE

On 24 June, the EC published the EU Strategy on victims' rights (2020-2025). The strategy includes specific measures on advancing protection of LGBTI victims of crime, such as training of law enforcement, awareness raising for victims of crime, and the creation of rainbow desks at police stations. The Strategy also sets out the creation of the Victims' Rights Platform.

On 8 October, the European Parliament adopted a resolution on the rule of law and fundamental rights in Bulgaria, condemning acts of hate speech against the LGBTI community and calling on the Bulgarian authorities to amend the *Protection against Discrimination Act* to explicitly include gender identity as a ground of discrimination, as well as amend the current Criminal Code to encompass hate crimes and hate speech on SOGIESC grounds.

BODILY INTEGRITY

For the first time, the EU collected large-scale data on intersex people via the EU Agency for Fundamental Rights (FRA). Published in the EU LGBTI II survey (see under **Data collection**), the data set included responses from 1,519 intersex people across 30 countries.





In November, the [EU LGBTIQ Equality Strategy](#) made focused commitments to the advancement of the rights of intersex people, including commitments to conduct intersex-specific research and to develop an EU-wide harmful practices framework which includes intersex genital mutilation.

DATA COLLECTION

On 14 May, the EU Agency for Fundamental Rights (FRA) [published](#) the results of the EU LGBTI II survey. The survey of 140,000 lesbian, gay, bisexual, trans and intersex (LGBTI) people reveals that, overall, more LGBTI people felt discriminated against in the previous year (43%), compared to when the first survey was taken in 2012 (37%). The survey included data on socio-economic inequality, LGBTI homelessness and included intersex in the survey.

DIVERSITY

On 17 September, the European Parliament [adopted](#) a resolution on the implementation of National Roma Integration Strategies: Combating Negative Attitudes Towards People with Romani Background in Europe. The resolution calls on the EC and Member States to take action regarding the situation and the rights of individuals at the intersections of discrimination grounds in the EU, and specially names LGBTI people in this context.

In November, the German EU Presidency organised a conference on “[Intersectionality and LGBTI Policies in Europe](#)”, focusing on lesbian visibility, the rights of rainbow families, intersectionality, and the EU LGBTIQ Equality Strategy.

EDUCATION

As part of the [EU LGBTIQ Equality Strategy](#), the EC announced to setting up of an expert group on gender stereotypes and bullying, regarding education. In September, the EC also [committed](#) to develop a European Education Area (EEA), which includes a section on “inclusive education and gender equality”, using the language of people “in all their diversity”.

EMPLOYMENT

In a judgement delivered on 23 April, the European Court of Justice (CJEU) [held](#) that statements made by a lawyer during a radio programme in Italy, saying he would never recruit a “homosexual” or wish to use the services of such persons, fall within the material scope of EU Directive 2000/78, establishing a general framework for equal treatment in employment and occupation (‘the anti-discrimination directive’) (Case C-507/18). The case was brought by Rete Lenford Avvocatura Per I Diritti LGBT (Lawyers For LGBT Rights), and in the judgement the Court noted that the lawyer’s statements may fall within the ambit of the anti-discrimination directive, even if no recruitment procedure had been opened or planned at the time when the statements were made, where the link between the statements and the conditions for access to employment is not hypothetical.

The [EU LGBTIQ Equality Strategy](#) sets out a number of initiatives to fight discrimination in employment, including gathering data on discrimination in access to the labour market, particularly for trans and intersex people, and guidance to Member States on the issue; the implementation report on the Employment Equality Directive; and possible following legislative proposals to tackle discrimination in the labour market on SOGI.

ENLARGEMENT

On 5 February, the European Commission adopted the 2020 Communication “*Enhancing the accession process – A credible EU perspective for the Western Balkans*”. In March, the European Council decided to open accession negotiations with North Macedonia and Albania. The EC accession progress continues to be an important driver for progress on LGBTI equality in the region.





The European Commission's [Enlargement Progress Report 2020](#), published in October and covering 2019, recommended a number of steps regarding the improvement of LGBTI rights across the region of the Western Balkans, focusing on combatting hate-crime and hate-speech, especially against trans people, improving legal protection against discrimination, and the lack of legal gender recognition procedures and the invisibility of intersex people. The EC continued to highlight the very serious situation for LGBTI people in Turkey, citing the restrictions on LGBTI NGOs, violence targeted at LGBTI organisations, smear campaigns and hate speech by political and religious leaders, as well as the ongoing need to lift blanket bans on LGBTI events, adopt an anti-discrimination law that is inclusive of SOGI, and amend the hate-crime law to include SOGI. It also noted that Turkey has an extremely high murder rate of trans people.

EQUALITY AND NON-DISCRIMINATION

In March, EC Vice-President Jourova and Commissioner Dalli held a meeting with representatives of LGBTI organisations in Europe to assess the impact of the COVID-19 pandemic on the LGBTI community and LGBTI rights in the EU, in preparation for the EU LGBTIQ Strategy.

On 5 March, the EC adopted the [Gender Equality Strategy 2020-2025](#). The Strategy sets out to protect and advance the rights of “women and girls in all their diversity” and specific actions. “In all their diversity” is explicitly defined in the Strategy to refer to people regardless of their “sex, gender identity, gender expression, or sex characteristics”.

In June, the EC's Directorate General (DG) for Employment and DG Regional Development wrote a letter to five regional Polish governments regarding their use of cohesion funds as regions which adopted Family Charters, which discriminate against LGBTI people and their families.

On 28 July, EC Commissioner Dalli announced the decision to stop funding applications of six Polish municipalities and cities who had applied for the twinning programme of the Europe for Citizens project, because they had adopted Family Rights Charters.

On 17 September, the EP [adopted](#) a resolution that names the ongoing discrimination against LGBTI people in Poland and condemns the arrests of Polish LGBTI human rights activists as well as the so-called ‘LGBT-free zones’. It calls on the Council and the Commission to use the Rule of law procedure under Article 7(1) TEU to its full potential by also addressing violations of fundamental rights including LGBTI rights.

In October, the European Parliament [adopted](#) a resolution on the establishment of an EU Mechanism on Democracy, the Rule of Law and Fundamental Rights that calls for the systematic inclusion of violations of fundamental rights as set out in the Treaties, including LGBTI rights, into any rule of law procedures on EU level.

On 26 November, the European Parliament [adopted](#) a resolution on the situation of Fundamental Rights in the European Union for the years 2018 – 2019, addressing anti-LGBTI hate speech and hate crimes, as well as the shrinking space for human rights defenders and civil society. It also recalls that vulnerable groups of prisoners, including LGBTI prisoners, have special needs that need to be taken into account.

On 3 December, coinciding with the EU Employment, Social Policy, Health and Consumer Affairs Council (EPSCO) meeting, 16 Member States came together upon the invitation of the Luxembourg minister for Family and Integration, to publicly [welcome](#) the EU LGBTIQ Equality Strategy.

FAMILY

In her state of the Union address in September in the European Parliament, EC President Ursula von der Leyen clearly [committed](#) to put forward legislation to ensure mutual recognition between EU Member States on parental relations. The commitment was included in the [EU LGBTIQ Strategy](#), and a legislative proposal was announced for 2022.





"If you are parent in one country, you are parent in every country." - Ursula von der Leyen, EC President, State of the Union Address

FOREIGN POLICY

On 25 November, the EU adopted the [Gender Action Plan III](#) – putting women and girls' rights at the heart of the global recovery for a gender-equal world. The Plan commits to an intersectional approach and states that it should be read in conjunction with the new EU LGBTIQ Equality Strategy. Its initiatives will be open to organisations and projects working at the cross section of LGBTI rights and women's rights, in order to protect LGBTI women in external relations.

HEALTH

In the frame of the [EU LGBTIQ Equality Strategy](#), the EC sets out to support intersectional research, including on health as well as encouraging member states to organise trainings for healthcare professionals in the care needs of LGBTI people, as well as ensuring mainstreaming of LGBTI rights in all health portfolios, like for example the RU Beating Cancer Plan.

On 26 November, the European Parliament [adopted](#) a resolution on the de facto ban on the right to abortion in Poland. The text includes a specific mention of trans and non-binary people amongst most vulnerable groups disproportionately affected by limits and barriers in accessing sexual and reproductive rights.

LEGAL GENDER RECOGNITION

In August, the EC published the study [Legal gender recognition \(LGR\) in the EU](#). The study examines the relationship between the existence of LGR measures and the wellbeing of transgender people, as well as their socio-demographic and socio-economic position in society. The study recommends, among other things, that Member States implement fully human rights-compliant LGR mechanisms to ensure the protection of human rights of trans people.





Council of Europe

The COVID-19 pandemic dramatically impacted the work of the Council of Europe in 2020; the Parliamentary Assembly of the Council of Europe (PACE) cancelled three of its four-part sessions, replacing them with meetings of the Standing Committee, which meant in practice that debates, written declarations, and questions from the floor during session were dramatically curtailed. Furthermore, the European Commission against Racism and Intolerance (ECRI) rescheduled many of its country visits and delayed planned reports, as did the General Rapporteur on the rights of LGBTI people.

The Council of Europe created a new Steering Committee - the [Steering Committee on Anti-Discrimination, Diversity and Inclusion \(CDADI\)](#), in 2020, which includes in its mandate further formalisation and integration of SOGI issues into the non-discrimination framework. Additionally, the Secretariat of the [European Focal Points Network](#) was relocated to be formally hosted within the SOGI Unit, adding weight to this long-standing intergovernmental space and opening a path to formalised intergovernmental dialogue on SOGIESC issues.

ASYLUM

In a judgement delivered on 17 November in the case of *B and C v. Switzerland*, the European Court of Human Rights (ECtHR) found that State's failure to assess the risks of ill-treatment for a gay person in The Gambia, and the availability of State protection against ill-treatment emanating from non-state actors, give rise to violation of Article 3. Although the laws criminalising same-sex relations may not be imposed, they are however an indication that State protection of LGBTI individuals would not be available putting the person.

BIAS-MOTIVATED SPEECH

On 14 January, the European Court of Human Rights [found](#) in the case of *Beizaras and Levickas v. Lithuania* that Lithuania's failure to investigate online hateful comments against a gay couple to have violated their rights to private and family life, as well as being discriminatory on the ground of sexual orientation.

On 15 May, the Commissioner for Human Rights of the Council of Europe published a [statement](#) for IDAHOT+ entitled Hate mongering against LGBTI people has no place in today's Europe.

On 10 June, in the case of *Liliendahl v. Iceland*, the European Court Of Human Rights [found](#) that Iceland acted in compliance with the Convention by convicting and fining the author of homophobic comments. The Court found that such prejudicial and intolerant comments, which promoted intolerance and detestation of gay persons, fell within the definition of hate-speech under Article 10 of the Convention, and did not enjoy protection as a form of freedom of expression.

The General Rapporteur on the rights of LGBTI people for the Assembly issued a statement on 25 June entitled "Poland: 'stop the rhetoric of hate against LGBTI people' says PACE General Rapporteur". Additionally, on 26 June a [motion for a resolution](#) on Combatting rising hate against LGBTI people in Europe was tabled. It was approved by the Bureau, and the General Rapporteur on the rights of the LGBTI people was assigned as rapporteur. A hearing was held on the resolution on the Committee on Equality and Non-discrimination on 24 November, and a country visit to Poland was approved by the Committee for fact-finding.

BODILY INTEGRITY

OII Europe, the Finnish Permanent Representative to the Council of Europe, and the SOGI Unit hosted a [webinar](#) on 30 June, to launch a [report commissioned by the Finnish government](#) and raise awareness about the situation of intersex people in Europe. Additionally, the SOGI Unit hosted a [webinar](#) on 20 November on intersex issues in Serbia.

ECRI included intersex issues in its investigative and released country reports with intersex-specific content on [Albania](#), [Austria](#) (with recommendation), [Czechia](#) (with recommendation), [Germany](#) (with recommendation), [Slovakia](#), and [Switzerland](#) (with recommendation).

The General Rapporteur on LGBTI published a [statement](#) calling for an end to intersex genital mutilation to mark the occasion of Intersex Awareness Day on 26 October.





EQUALITY AND NON-DISCRIMINATION

On 16 September, the Committee of Ministers took note of the report prepared by the SOGI Unit on the review of the Committee of Ministers Recommendation (2010)5, which was previously adopted by the Steering Committee on Human Rights (CDDH) in November 2019, on measures to combat discrimination on grounds of sexual orientation or gender identity.

A report, resolution, and recommendation were adopted on Preventing discrimination caused by the use of artificial intelligence, which took note of the ways in which LGBTI people may be vulnerable in the context of AI.

The draft resolution on Supporting people with autism and their families, published in November, took note of the joint civil society submission highlighting the unique challenges for LGBTI people with autism, including social isolation, limitations in access to medical care, and ableism in LGBTI communities.

FAMILY

The Commissioner for Human Rights of the Council of Europe submitted a third party intervention to the European Court of Human Rights concerning the case of Florin Buhuceanu and Victor Ciobotaru v. Romania and 12 other cases, noting with concern the lack of access to partnership rights for same-sex couples.

FREEDOM OF ASSEMBLY

In January 2020, the 22 members of the Assembly signed a written declaration insisting that *The Turkish authorities must drop all charges against LGBTI activists who participated in Pride*. Similarly, following her country visit to Turkey, the Commissioner for Human Rights of the Council of Europe issued a report on 19 February stating that *Turkish authorities must restore judicial independence and stop targeting and silencing human rights defenders*.

On 13 October, the European Court of Human Rights issued a judgment in *Sozayev and Others v. Russia*, establishing that arrests of LGBTI activists protesting the so-called gay propaganda law had violated Articles 5, 6, and 11 of the Convention. On 1 December, the Court ruled in the *Berkman v. Russia* case that Russia failed to ensure the peaceful conduct of a public meeting in St. Petersburg on Coming Out Day in 2013 and that activist Yelena Berkman's arrest and detention was arbitrary, unlawful, and discriminatory.

FREEDOM OF RELIGION

During the January 2020 Part Session of the Assembly, a resolution on *The protection of freedom of religion or belief in the workplace* was successfully amended, with collective effort from LGBTI and SRHR civil society organisations, to ensure that freedom of religion was not manipulated to allow for discrimination against LGBTI people or those seeking access to abortion or contraception.

FREEDOM FROM TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT

On 8 October, the European Court of Human Rights in the case of *Aghdgomelashvili and Japaridze v. Georgia* found that the 2009 humiliating police raid in the office of an LGBT NGO based in Tbilisi followed by inappropriate investigations by the domestic authorities constituted a violation of Article 3 (prohibition inhuman and degrading treatment), taken in conjunction with Article 14 of the Convention.

HEALTH

In the context of the COVID-19 pandemic, the General Rapporteur on the rights of LGBTI people issued a statement on 15 May, around the commemoration of IDAHOT+, entitled COVID-19: *No time for silence at critical moment for LGBTI people*. On the same day, the Commissioner for Human rights of the Council of Europe signed a joint statement with UN and IACHR mandates entitled COVID-19: *The suffering and resilience of LGBT persons must be visible and inform the actions of States*. The Assembly adopted an LGBTI-inclusive report, Upholding human rights in times of crisis and pandemics: gender, equality and non-discrimination, on 13 October. ECRI released a brief statement noting the impacts of the pandemic on LGBTI people.





HUMAN RIGHTS DEFENDERS

In October, the Standing Committee adopted a [report and resolution](#) on *The principles and guarantees of advocates*, which acknowledged the persecution of lawyers who represent LGBTI clients or work on LGBTI issues and called for this to cease.

LEGAL GENDER RECOGNITION

On 22 May, in response to the tabling of the omnibus bill in Hungary which, once adopted, made legal gender recognition impossible in the country, the General Rapporteur on the rights of LGBTI people issued a [statement](#) entitled “*Depriving trans and intersex people of legal gender recognition in Hungary is intolerable*”, says General Rapporteur.

On 9 July, the European Court of Human Rights [issued a judgement](#) in the case of Y.T. v Bulgaria, finding violation of Article 8 (right to private and family life). Domestic authorities’ refusal to grant legal recognition to Y.T.’s gender reassignment, without giving relevant and sufficient reasons, and the rigidity in the domestic courts’ reasoning, which lasted for an unreasonable and continuous period, resulted in applicant’s feelings of vulnerability, humiliation and anxiety.

On 16 July, the European Court of Human Rights [established](#) Hungary’s positive obligation under Article 8 to secure the right to respect for private life to provide a procedure [allowing](#) asylum seekers to have their gender identity legally recognised.

ECRI recommended [Czechia](#) and [Slovakia](#) to remove the mandatory sterilisation requirement of LGR.

SEXUAL AND REPRODUCTIVE RIGHTS

On 26 June, the Assembly adopted an LGBTI-inclusive [resolution](#) on access to contraception in the Council of Europe region.

On 21 July the Commissioner for Human Rights of the Council of Europe published an LGBTI-inclusive [human rights comment](#) calling for comprehensive sex education in schools.

In a speech on 12 November, to commemorate European Day Against Sexual Exploitation and Sexual Abuse of Children, the Commissioner for Human Rights pointed out that LGBTI people, among others, were wrongfully scapegoated in discussions of prevention of this violence.





United Nations

Advocacy in general in the UN was severely impacted by the COVID-19 pandemic in 2020. Processes were delayed, and many of the expected outcomes of 2020 have been pushed to future work plans.

UN INDEPENDENT EXPERT ON SEXUAL ORIENTATION AND GENDER IDENTITY

The Independent Expert, [Victor Madrigal-Borloz](#) released two thematic reports in 2020. One focused on so-called “conversion therapy”, and the other on COVID-19 and its impact on the human rights of LGBT people. Both reports were preceded by public consultations. Following from the report on COVID-19, on 18 June, the Independent Expert released the [ASPIRE Guidelines](#) (Acknowledgement, Support, Protection, Indirect discrimination avoidance, Representation, Evidence-gathering) on COVID-19 response and recovery free from violence and discrimination based on sexual orientation and gender identity.

On 27 April, the Independent Expert [published](#) his report on his 2019 country visit to Ukraine, highlighting that legislation is adequate but implementation is lacking; that LGBTI people are by large mandated to secrecy as a result of stigma; that attacks against public events are of serious concern; and that political leaders must show public support to the community. The Independent Expert’s country visits to Sri Lanka and Tunisia were postponed to 2021.

On 17 May, on the occasion of the International Day Against Homophobia, Transphobia, Biphobia, and Interphobia (IDAHOT+), the Independent Expert released a [joint statement](#) on COVID-19: *The suffering and resilience of LGBT persons must be visible and inform the actions of States*, co-signed by human rights experts within the UN, as well as the Council of Europe and the Inter-American Commission on Human Rights.

ASYLUM

The Special Rapporteur on freedom of religion or belief urged the [Netherlands](#) to address tension between LGBTI asylum seekers and others in reception centers. The [Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance](#) also noted with concern the inappropriate questioning of LGBTI asylum seekers from Muslim-majority countries, and the denial of claims on the basis of prejudice and stereotypes.

BIAS-MOTIVATED SPEECH AND VIOLENCE

The Committee on the Rights of the Child (CRC) recommended to [Belarus](#) and [Hungary](#) that they develop SOGI-inclusive strategies to prevent violence against children, and additionally to [Hungary](#) that it implement anti-bullying measures.

The Human Rights Committee (HRCtte) recommended [Portugal](#) to implement efforts to combat intolerance, stereotypes, prejudice and discrimination and to prevent hate speech and hate crimes against LGBT persons.

As part of the Universal Periodic Review (UPR), [Armenia](#) and [Sweden](#) accepted, and [Kyrgyzstan](#) and [Turkey](#) noted recommendations to step up efforts to combat hate speech and incitement to anti-LGBTI violence.

The Special Rapporteur on violence against women recommended [Bulgaria](#) to include ‘gender identity’ as a protected ground in its anti-discrimination and hate crime legislation.

The Special Rapporteur in the field of cultural rights noted with concern the backlash against the cultural expression of LGBTI people in [Poland](#) and urged the government to speedily adopt legislation to protect LGBTI people from discrimination, hate speech, and hate crimes.

BODILY INTEGRITY

The Committee on the Elimination of Discrimination against Women (CEDAW) recommended [Bulgaria](#) to implement a human rights based healthcare protocol for intersex women.

The CRC recommended to [Austria](#) that it implement measures to prohibit unnecessary interventions on intersex children, and the HRCtte issued a similar recommendation to [Portugal](#). Additionally, the Committee on Economic, Social and Cultural Rights (CESCR) issued a detailed recommendation to [Belgium](#) regarding individual consent to medical interventions, training of healthcare providers, and ensuring that intersex-led civil society is meaningfully engaged in all relevant processes.





As part of the UPR, [Sweden](#) accepted a recommendation to protect children's right to bodily autonomy and ensure that non-vital surgical or other medical procedures are not performed without the individual's personal informed consent.

The Special Rapporteur on the sale and sexual exploitation of children highlighted the vulnerability of LGBTI children to punitive placement to residential institutions, sexual abuse, and commercial sexual exploitation in [Bulgaria](#).

EQUALITY AND NON-DISCRIMINATION

On 24 February, CEDAW issued a [decision](#) against the Russian Federation in the case of O.N. and D.P. v. Russian Federation, finding a violation of the right of access to justice and effective remedy / violence and discrimination against women on the basis of their sexual orientation. Further, CEDAW recommended [Latvia](#) and the [Republic of Moldova](#) to ensure effective access to justice, full inclusion and accessibility for LGBTI women/persons.

CEDAW recommended [Bulgaria](#) to ensure substantive equality for women facing intersecting forms of discrimination, including LGBTI women.

On 7 April, the CESCR released [General comment No. 25 \(2020\) on science and economic, social and cultural rights](#), which includes specific reference to discrimination in access to technology and scientific progress on the basis of sexual orientation and gender identity.

The CRC recommended to [Belarus](#) and [Hungary](#) that they implement SOGI-inclusive anti-discrimination laws. CESCR made a similar recommendation to [Ukraine](#), and HRCtte to [Uzbekistan](#).

As part of the UPR, [Armenia](#) and [Kyrgyzstan](#) accepted and [Turkey](#) noted recommendations to combat discrimination against LGBTI people and to implement existing anti-discrimination legislation (Turkey). [Spain](#) accepted a recommendation to continue its reform efforts.

The CRC released its [Draft General Comment No. 25](#) on children's rights in relation to the digital environment, which includes discussion of sexual orientation and gender identity as protected grounds for discrimination.

EDUCATION

The Working Group on discrimination against women and girls urged [Greece](#) to increase content on SOGI issues in school curricula.

EMPLOYMENT

The Working Group on the issue of human rights and transnational corporations and other business enterprises urged [Georgia](#) to promote workplace diversity and LGBTI standards of conduct for businesses, and eliminate discrimination.

FAMILY

The Special Rapporteur on violence against women highlighted that the lack of legal recognition for same-sex couples discriminates against LGBTI people in [Bulgaria](#).

FREEDOM OF ASSEMBLY

The HRCtte issued [General Comment No. 37](#) on Article 21 of the ICCPR (the right of peaceful assembly), which makes explicit reference to protection of the right to peaceful assembly on the grounds of sexual orientation and gender identity.

FREEDOM OF ASSOCIATION

As part of the UPR, [Armenia](#) accepted and [Turkey](#) noted recommendations regarding protecting the rights of all citizens to freedom of association and assembly, including LGBTI persons.





HEALTH

In April, CEDAW developed a [Guidance Note on CEDAW and COVID-19](#), which calls on States to “address discrimination against lesbian, bisexual and transgender women in access to health care and ensure that they have access to safe shelters and support services whenever exposed to gender-based violence during home confinement.”

On 15 May, the Equal Rights Coalition released a [statement](#) on coronavirus (COVID-19) and the human rights of LGBTI persons, calling on governments to address the specific vulnerabilities of LGBTI people during the pandemic. The LGBTI Core Group released a similar [statement](#) including specific calls for government action on 21 May.

On 2 October, Mr. Ghanshyam Bhandari, Deputy Permanent Representative of Nepal, [intervened](#) on behalf of the UN LGBTI Core Group at the 75th Session of the General Assembly Third Committee General Debate regarding the impact of COVID-19 on LGBTI people.

On 27 November, CESCR released a [Statement on universal and equitable access to vaccines for COVID-19](#), which demands non-discrimination on sexual orientation and gender identity, among other protected characteristics.

HOUSING

The Special Rapporteur on adequate housing highlighted that due to the lack of emergency shelters in [France](#), LGBTI people who are unwelcome in their family homes are left desperate and unsafe.

HUMAN RIGHTS DEFENDERS

The Special Rapporteur on the sale and sexual exploitation of children and the Special Rapporteur on violence against women highlighted the detrimental impact of the anti-gender rhetoric on LGBTI civil society organisations in [Bulgaria](#).

The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism noted that LGBTQ organisations are denied registration in [Kazakhstan](#) and are negatively impacted by rights-limiting measures.

LEGAL GENDER RECOGNITION

As part of the UPR, [Spain](#) and [Sweden](#) accepted recommendations to adopt demedicalised legal gender recognition legislation.

POLICE AND LAW ENFORCEMENT

CEDAW recommended [Ukraine](#) to implement training for law enforcement officers and judiciary personnel regarding SOGI issues.

The Working Group on Arbitrary Detention urged [Greece](#) to ensure LGBTI people receive individualised treatment in places of detention.

SEXUAL AND REPRODUCTIVE RIGHTS

The CRC recommended [Belarus](#) to implement SOGI-inclusive sexual education and training of health professionals to support LGBT children.

THE AGENDA 2030: SUSTAINABLE DEVELOPMENT GOALS

The LGBTI Stakeholder Group held its first formal side-event at the July [High Level Political Forum](#) (HLPF), the central platform for follow-up and review of the 2030 Agenda for Sustainable Development. The Group also published a formal position paper, [2020 High Level Political Forum Position Paper “Accelerated action and transformative pathways: realising the decade of action and delivery for sustainable development”](#), in June. The UN LGBTI Core Group also [intervened](#) during the 2020 HLPF on 7 July.





Organisation for Security and Cooperation in Europe

BIAS-MOTIVATED VIOLENCE

On 16 November, the Office for Democratic Institutions and Human Rights (ODIHR), the principal institution of the Organisation for Security and Cooperation (OSCE), published its hate crime data for 2019. In 2020, 39 OSCE participating states submitted information to ODIHR and 19 of these included statistics on the number of recorded hate crimes targeting LGBT people.

Civil society organisations and other non-state groups reported 1,272 anti-LGBT hate crimes that were reported in 2019, in 35 states [2019: 27]. These include 797 violent attacks, 401 threats and 74 attacks against property.

In November, ODIHR highlighted that documenting hate crimes and offering support to those affected is a key to ensuring the security of individual victims, their communities, and society as a whole. ODIHR also emphasised that a large number of states did not provide police and prosecutors with the tools and knowledge they need in order to recognise, record and effectively investigate such crimes. This frequently deprives hate crime victims of the opportunity to access much-needed specialist support.

On 2 and 3 December, the International Network for Hate Studies together with the ODIHR, and the University of Plymouth organised a two-day conference on 'Hate, Democracy, and Human Rights'. Representatives of governments, academic institutions and civil society gathered to discuss the ways in which human rights and democracy are challenged by hate.



Netherlands

ASYLUM

LGBT Asylum Support received over 60 reports of discrimination and violence against LGBTQ asylum seekers during the summer, and appealed to the Ministry of Justice to increase protective measures, including through separate housing. Civil society requested the Ministry to make it easier for LGBTI Iranians to seek asylum. So far the policy has not changed.

BIAS-MOTIVATED SPEECH

A report found that young LGB people face twice as much online bullying as those who are heterosexual.

Non-binary person, Nanoah Struik received thousands of hateful online messages after it became public that they were granted an 'X' gender marker on their ID in 2019.

In April, following civil society pressure, the Minister for Legal Protection announced that hate speech and discrimination on the basis of gender identity and expression and sex characteristics would be criminalised. A first draft of the law, currently up for public review, fails to include GIESC in all non-discrimination articles of the Penal Code. The revised Penal Code will use the term 'sexual orientation' as a ground instead of 'hetero- or homosexual orientation'.

BIAS-MOTIVATED VIOLENCE

Hate crimes against LGBTI people were reported by the media almost every week in 2020. For instance, a gay couple in Amsterdam was attacked several times when walking hand-in-hand, and trans women were attacked in different cities. Civil society urged the state to better protect LGBTI people.

On 3 July, Minister of Justice and Security, Ferdinand Grapperhaus met with civil society, and victims of hate crime, vowing to increase protections. TNN and COC Netherlands presented the Minister with an action plan, but so far no additional measures have been taken. Two days before the meeting, a bill was tabled by the GroenLinks and ChristenUnie parties to increase the penalties for hate crimes.

BODILY INTEGRITY

A research report commissioned by the government found at least 15 'conversion therapy' providers and 68 LGBT people who were subjected to conversion therapy, sometimes over the course of a year. Civil society continued calling for a ban. The largest party in parliament, VVD, announced that it would draft a bill.

The publication of the government commissioned study on medically unnecessary and non-consensual surgeries on intersex children was postponed until 2021. The researchers are yet to involve the intersex movement in the process.

DIVERSITY AND INTERSECTIONALITY

Funding ended in 2020 for projects working on the rights of LGBTI asylum seekers, elderly LGBTI people and LGBTI people with disabilities. On civil society's request, parliament voted for continued funding for elderly LGBTI people and LGBTI people with a disability for 2021.

EDUCATION

Research platform Pointer discovered that several orthodox schools used teachings against "homosexuality". Minister of Education, Arie Slob first defended the approach, but the parliament denounced this and amended the law in November, obliging all Dutch schools to make sure that LGBTI youth are respected and protected.

In September, COC Netherlands launched an app where LGBTI youth under 19 can connect safely online.

EMPLOYMENT

The government commissioned a study on paid transition leave for trans people in employment, following the parliament's 2019 request.

EQUALITY AND NON-DISCRIMINATION

On 19 March, in the case of a trans student, the Institute for Human Rights ruled that trans people may not be discriminated against in their access to safe bathrooms.

In April, TNN's annual monitoring report found that the number of discrimination cases against trans people continued to rise for the third consecutive year.

In June, the Second Chamber of Parliament adopted a Constitutional amendment explicitly banning discrimination on the ground of sexual orientation. The government stated that "gender", already mentioned in the Constitution, shall be interpreted as covering gender identity, gender expression, and sex characteristics. The bill will be debated in early 2021. The amendment was part of the 2017 Rainbow Ballot Box Agreement.

FAMILY

In May, COC Netherlands launched a letter-writing [campaign](#) addressed to the Minister of Legal Protection, Sander Dekker, to provide legal recognition to families with more than two parents. To date the Minister has launched a consultation on a bill on partial parental authority for those families, which the campaign called insufficient.

FOREIGN POLICY

The Dutch ministry of Foreign Affairs declared LGBTI human rights to be one of its seven priorities for international development aid policy, and made significant funding commitments.

FREEDOM FROM TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT

In February, trans organisations TNN and NNID demanded a public apology and financial compensation for trans and intersex people who were required to undergo forced medical interventions, including sterilisation, to access LGR between 1985 and 2014. In November, the government [announced](#) it would apologise and provide compensation, but the details of both are yet to be seen. Civil society is working on the next steps.

HEALTH

In November, Movisie published a factsheet on the effects of the COVID-19 pandemic on LGBTI people, with almost a third reporting difficulties. COC published a list of [resources](#) for LGBTI, and TNN for [trans people](#). LGBTI+ Support [launched](#) a counselling hotline.

On 2 June, trans organisations TNN and Transvisie [set up](#) a new information service for trans people.

In March, the Dutch Health Authority [published](#) a list of urgent healthcare services during the COVID-19 crisis, excluding trans healthcare. Civil society [appealed](#) to the authority. The pandemic has led to [increased](#) waiting times, despite the opening of a [third gender clinic](#) in Nijmegen. Many surgeries were postponed and the intake of new patients is now [limited](#).

In May, the Quartermaster on trans healthcare [published](#) a report calling for freedom of choice and joint decision-making in trans healthcare. TNN [welcomed](#) this individualised approach, but called for a firmer stand for depathologisation.

LEGAL GENDER RECOGNITION

The government [announced](#) in July that from 2024, ID cards will no longer feature gender markers. This had been [advocated](#) for and was [welcomed](#) by civil society, and is a part of the Rainbow Ballot Agreement.

The public consultation on LGR law reform ended this year. The proposal includes abolishing the expert opinion requirement, but [fails](#) non-binary people and those under 16 who would still need to go through a court procedure.

PARTICIPATION IN PUBLIC, CULTURAL AND POLITICAL LIFE

In June, [Utrecht](#) and in October, [Amsterdam](#) signed “The Dutch Intersex Treaty”, committing to targeted policy and measures protecting intersex people.

PUBLIC OPINION AND ATTITUDES

YouTube star Nikkie de Jager [came out](#) as trans and was met by overwhelmingly positive reactions.

SOCIAL SECURITY AND SOCIAL PROTECTION

A study by Movisie [confirmed](#) the extreme vulnerability of homeless LGBTI youth and their lack of access to safe housing and of 900 to 2,000 LGBTI young people living in the streets. COC called on State Secretary Paul Blokhuis for safe shelters and several parties requested a governmental action plan.



[NETHERLANDS WEB PAGE](#)

[MORE INFORMATION ON WWW.RAINBOW-EUROPE.ORG](#)

