

DECLARATION OF MINISTERS RESPONSIBLE FOR LGBTIQ POLICIES OF EU MEMBER STATES ON "ADVANCING LGBTIQ RIGHTS IN EUROPE"

Whereas:

Article 21 of the Charter of Fundamental Rights of the European Union explicitly prohibits discrimination on the grounds of sexual orientation, among others, and Article 45 stipulates that "every citizen of the Union has the right to move and reside freely within the territory of the Member States". Furthermore, Article 19 of the Treaty on the Functioning of the European Union empowers the Council to take appropriate action to combat discrimination on various grounds, including sexual orientation.

Council Directive 2000/78/EC, of 27 November 2000, establishing a general framework for equal treatment in employment and occupation, prohibits discrimination in the field of employment on grounds of sexual orientation.

The Council has adopted the Conclusions of 16 June 2016 on LGBTI equality, which, among other issues, invite the Member States to work together with the European Commission and take action to combat discrimination on the grounds of sexual orientation and gender identity.

Furthermore, on 9 June 2023 the Swedish Presidency of the Council adopted Presidency Conclusions on the safety of LGBTI persons in the European Union, which, among other issues, affirm the supporting Member States commitment to promote and support the fundamental right of all persons within the EU, including LGBTI persons, to be safe from violence, harassment and discrimination; to continuously address violations of fundamental rights, including by responding to such violations against LGBTI persons and to keep matters of LGBTI safety on the political agenda. These Presidency Conclusions were supported by 25 EU Member States.

The European Parliament has also spoken out on numerous occasions on the need to protect the rights of LGBTIQ¹ persons, for example through the adoption on 4 February 2014, by a vast majority, of the resolution on the EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity, or its

¹ The acronym "LGBTIQ" stands for lesbian, gay, bisexual, transgender, intersexual and queer people. It is meant to encompass all persons typically experiencing discrimination on grounds of their sexual orientation, gender identity, gender expression or sex characteristics.

resolution of 18 December 2019 on public discrimination and hate speech against LGBTI people, including LGBTI free zones.

Furthermore, the European Parliament has stressed the need to end sex-normalizing treatments and surgery of intersex minors in its resolution of 14 February 2019 on the rights of intersex people. More recently, in its resolution of 14 September 2021 on LGBTIQ rights in the EU, it underlined the need to work towards the full enjoyment of fundamental rights by LGBTIQ persons in all EU Member States and recalled that the EU institutions and the Member States therefore have a duty to uphold and protect them in accordance with the Treaties and the Charter, as well as with international law.

In order to address the inequalities and challenges affecting LGBTIQ people and move towards a Union of Equality, in 2020, the European Commission adopted the first-ever LGBTIQ Equality Strategy 2020-2025, which encourages Member States to develop their own action plans and to implement measures to advance LGBTIQ equality in all areas of Member State competence.

The Strategy also promotes best practice exchanges between Member States on how to put in place accessible legal gender recognition legislation and procedures based on the principle of self-determination and without age restrictions.

On 17 May 2023, on the International Day against Homophobia, Biphobia and Transphobia and (IDAHOT), the European Union once again reaffirmed, through the Declaration of its High Representative, its strong commitment to protect and promote the full enjoyment of human rights by LGBTI persons in all aspects of their lives, within the EU and around the world.

A large number of Member States have gone beyond the existing EU acquis and have legislated, and continue to do so, extending the protection of LGBTIQ persons against discrimination and the guarantee of their equal enjoyment of fundamental rights to other areas of life. Many Member States have also taken other legislative steps in order to secure equal rights and opportunities for LGBTIQ persons. For example, 15 Member States of the European Union recognise the right to marriage on equal terms for persons of the same sex and 8 allow legal gender recognition without resorting to pathologising criteria and without any requirements other than gender self-determination².

Despite these advances, in recent years several events have put the human rights of LGBTIQ persons at risk, and have led to an increase in hatred, violence and discrimination towards LGBTIQ persons, and particularly, towards transgender persons. Faced with these alarming facts, the European Parliament, in its resolution of 11 March 2021, denounced all forms of violence or discrimination against persons on the basis of their gender identity or sexual orientation and declared the European Union an 'LGBTIQ Freedom Zone'. Also the EU High Representative, in his declaration of 17 May, has expressed the EU's concern regarding the current rise in anti-LGBTIQ rhetoric, fuelled by disinformation and false narratives, often leading to violence, harassment and stigmatization.

² ILGA-EUROPE. Rainbow Index 2023. <https://www.ilga-europe.org/report/rainbow-europe-2023/>

The report published in 2020 by the European Union Agency for Fundamental Rights (FRA) "A long way to go for LGBTI equality", which analyses the experiences of 140,000 LGBTI persons from the European Union, the United Kingdom, Serbia and Northern Macedonia shows that 43% of the respondents had experienced discrimination in the previous 12 months in different areas of life. These figures are even higher for trans persons, with trans youth and children facing the highest discrimination rates of all groups.

Reports from organizations defending the rights of LGBTI people, such as ILGA Europe³, TGEU⁴, EL*C⁵, OIIEurope⁶ or IGLYO⁷ warn of high levels of discrimination that LGBTI people continue to experience in Europe. In spite of this, according to ILGA Europe's annual report 2023 and the Rainbow Europe Map and Index 2023, in almost half of EU countries there are still significant gaps as refers to elemental protection against that discrimination and violence.

The Report of the United Nations Independent Expert on protection against violence and discrimination based on sexual orientation or gender identity presented at the 44th session of the United Nations Human Rights Council, states that so called "conversion practices" are "inherently discriminatory, cruel, inhuman and degrading and, depending on the degree of physical or mental pain inflicted on the victim, may amount to forms of torture". In spite of this, so-called "conversion practices" continue to be carried out in many parts of Europe.

Some political and civil society organisations are campaigning to repeal existing legislation on human rights and equality for LGBTIQ persons, as well as to prevent the right to legal gender recognition without inhuman or degrading requirements.

Furthermore, not all Member States provide comprehensive sexuality education, from a gender equality and a sexual, gender and family diversity perspective, and in line with the standards of the World Health Organisation Office for Europe and its sexual and reproductive health action plan.

Therefore, **we, the undersigned Ministers responsible for LGBTIQ policies**, on the occasion of the High Level Conference on "Expanding LGBTIQ rights in Europe", held in Madrid, on 5 July 2023,

Invite the European Commission to:

- Remain committed to promoting LGBTIQ equality by adopting a second Strategy in 2025, continuing and reinforcing the work of the first EU LGBTIQ Equality Strategy (2020-2025) and developing instruments such as monitoring

³ ILGA-EUROPE. Rainbow Index 2023. <https://www.ilga-europe.org/report/rainbow-europe-2023/>

⁴ TGEU. Trans Right Map 2023. <https://transrightsmap.tgeu.org/>

⁵ EL*C. Observatory on Lesbophobia 2019-2022. <https://europeanlesbianconference.org/observatory-on-lesbophobia-2019-2022/>

⁶ OII Europe. OII Europe Annual Report. 2022. <https://www.oiiEurope.org/wp-content/uploads/2023/05/OII-Europe-Annual-Report-2022.pdf>

⁷ IGLYO (2022) LGBTIQ Inclusive Education Report. IGLYO, Brussels. <https://www.iglyo.com/resources/ie-2022>

tools and indicators to strengthen its implementation, including mainstreaming LGBTIQ issues in all relevant policy areas. Furthermore, the new Strategy should encourage and support the adoption and implementation of national LGBTIQ strategies developed by Member States.

- Continue, within the framework of the Treaties, to provide for the position of Commissioner for Equality in future Colleges of Commissioners with, inter alia, a strong mandate to mainstream LGBTIQ rights in all relevant EU Policies and ensure these rights are protected in all Member States.
- Continue to cooperate with Member States, especially through the LGBTIQ Equality Subgroup of the EU High Level Group on Non-discrimination, equality and diversity, to facilitate dialogue, share data and exchange good practices.
- Support Member States in improving the collection and use of reliable and comparable data to assess the situation of LGBTIQ people and effectively address inequalities.
- Promote equality and non-discrimination on the grounds of sexual orientation, gender identity, gender expression and sex characteristics and support Member States in their efforts to address discrimination on these grounds.
- Where necessary, take measures to ensure that Member States recognise the parenthood of children as established in another Member State in accordance with current Union law and in conformity with the case-law of the EU Court of Justice.
- Strengthen support (including through the use of existing financial support mechanisms) to international civil society organisations working on LGBTIQ rights.
- Monitor that Member States respect fundamental rights, including the principle of non-discrimination when implementing EU law and EU funded projects, and take legal actions in case of possible infringements.
- Strengthen political dialogue with Member States in order to identify all legal means and procedures that can be used in response to infringements of LGBTIQ rights.

Call on Member States to:

- Adopt national strategies that address discrimination faced by LGBTIQ persons, in line with the European Commission's LGBTIQ Equality Strategy, and implement public policies within this framework.

- Jointly develop and use a litigation strategy to support, where appropriate, EU institutions in court cases where the protection of EU values in general and the protection of the fundamental rights of the LGBTIQ persons in particular is at stake.
- Promote and advance equality and non-discrimination relating to all grounds, in particular on the grounds of gender identity, gender expression and sex characteristics.
- Prohibit and sanction so-called "conversion practices" of sexual orientation or gender identity, which may cause serious psychological and physical harm to their victims and can in some cases amount to torture.
- Offer comprehensive education on sexuality and relationships to all young people based on a gender equality and a sexual, gender and family diversity perspective; considering that educational strategies are a key instrument to prevent all forms of violence, in particular violence based on sexual orientation, gender identity and expression, and sex characteristics.
- Prevent, address and eradicate discrimination based on sexual orientation, gender identity, gender expression and sex characteristics in access to health services, in particular to medically assisted reproductive and fertility treatments.
- Guarantee legal gender recognition according to non-pathologising criteria and through a procedure based on the principle of self-determination.
- Prevent and eradicate unnecessary practices of sex-normalizing treatments and surgery of intersex minors, limiting these interventions to those essential for health reasons.
- Promote the decriminalisation of same-sex relations and trans identities at the international level.
- Support advances in the rights of LGBTIQ persons in all international forums.
- Support civil society organisations and human rights defenders at national and European level that defend the rights of LGBTIQ persons.

Declaration of the undersigned Member States on Advancing LGBTIQ rights in Europe. The signature of this declaration is open to as many Member States that wish to join it. The list of Member States supporting it may be extended as time goes by.

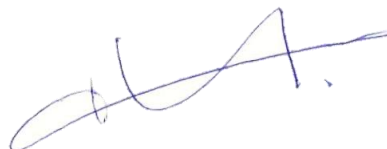
Irene Montero

Minister of Equality
Spain



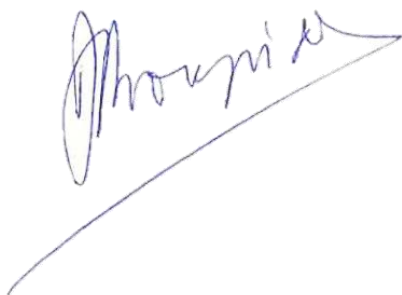
Marie-Colline Leroy

State Secretary for Gender Equality,
Equal Opportunities and Diversity
Belgium



Anna Koukkides-Prokopiou

Minister of Justice and Public Order
Cyprus



Marie Bjerre

Minister for Digital Government and
Gender Equality
Denmark



Signe Riisalo

Minister of Social Protection
Estonia



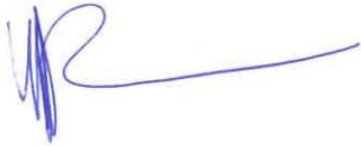
Sanni Grahn-Laasonen

Minister of Social Security
Finland



Isabelle Lonvis-Rome

Minister for Gender Equality, Diversity
and Equal Opportunities
France



Lisa Paus

Federal Minister of
Family Affairs, Senior Citizens,
Women and Youth
Germany



Roderic O’Gorman

Minister for Children, Equality, Disability,
Integration and Youth
Ireland



Ewelina Dobrowolska

Minister of Justice
Lithuania



Max Hahn

Minister for Family Affairs and
Integration
Luxembourg



Rebecca Buttigieg

Parliamentary Secretary
for Reforms and Equality
Malta



Marjan Hammersma

Secretary-General / Vice-Minister
Ministry of Education, Culture and
Science
The Netherlands



Isabel Almeida Rodrigues

Secretary of State for Equality and
Migration
Portugal



Dan Juvan

State Secretary of the Ministry of Labour,
Family, Social Affairs and Equal
Opportunities
Slovenia



Martin Andreasson

State Secretary to Minister for Gender
Equality and Working Life
Sweden

