



HUMAN RIGHTS AND GENDER IDENTITY

**BEST PRACTICE
CATALOGUE**

SECOND REVISED VERSION
DECEMBER 2016

ULRIKA WESTERLUND
RICHARD KÖHLER

HUMAN RIGHTS AND GENDER IDENTITY

IMPRINT


Authors second edition: Ulrika Westerlund, Richard Köhler
Design & Layout: benswerk.wordpress.com
Illustration (Origami): iStock.com/graphicpoet
Editing: Jennie Kermode

First edition: December 2011
Second revised edition: December 2016

The authors wish to acknowledge the kind support from TGEU member organisations and in particular Silvan Agius, Wiktor Dynarski, Boglarka Fedorko, Mina Tolu, Broden Giambrone, Micah Grzywnowicz, and Fran Luke for their valuable contribution to the second revised version.

The present document has been created with the greatest care, but cannot claim to be complete. Please send feedback and suggestions for amendments to tgeu@tgeu.org

While the catalogue aims to provide information and inspiration regarding legal questions, it is strongly recommended that you seek professional counsel before taking legal action. All links were last accessed in December 2016.

 This publication has been produced with financial support from the Rights, Equality and Citizenship Programme of the European Union and the Open Society Foundation. The contents of this publication are the sole responsibility of Transgender Europe, and can in no way be taken to reflect the views of the European Commission or the Open Society Foundation.

Copyright: You are free to share (copy, distribute and transmit the work) and to remix—that is to adapt—work, as long as you attribute the work in the manner specified by the authors (but not in any way that suggests that they endorse you or your use of the work) and do not use this work for commercial purposes. If you alter, transform, or build upon this work, you may distribute the resulting work only under the same or similar license to this one.

**BEST PRACTICE
CATALOGUE**

**SECOND REVISED VERSION
DECEMBER 2016**

**ULRIKA WESTERLUND
RICHARD KÖHLER**

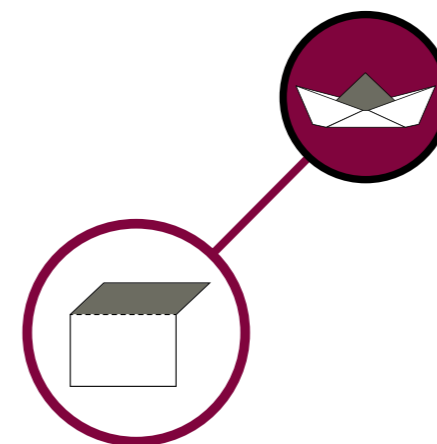





TABLE OF CONTENTS

	INTRODUCTION	7
	CHAPTER 1	8
	International Legal protection and Non-Discrimination	
	1.1 Endorsement of the Yogyakarta Principles at national level	8
	1.2 The United Nations human rights system's recognition of gender identity	9
	1.3 Gender identity within the Council of Europe human rights system	11
	CHAPTER 2	16
	Safety and Security	
	2.1 European and national legislation	17
	2.2 Data collection and LGBTI specific measures	20
	2.3 Responses from organisations and the community	22
	2.4 Rights of trans people in prison and detention	23
	2.5 Resources on trans asylum and refugees	26
	CHAPTER 3	28
	Quick, transparent, and accessible Legal Gender Recognition based on self-determination	
	3.1 Legal Gender Recognition	28
	3.2 Legislation on change of names and gender on civil status documents	31
	3.3 Alternative identification cards	32
	3.4 Removal of the requirement for sterilisation and other medical treatment	33
	3.5 Dissociating Marital Status from the Gender Recognition Process	34
	CHAPTER 4	38
	Equal Access to Employment, Education, and Goods and Services	
	4.1 European and national equality legislation	38
	4.2 National Transgender Equality Action Plans	41
	4.3 Including Gender Identity in the Scope of Equality Bodies	43
	4.4 Policies and practices in the labour market	47
	4.5 Workplace Initiatives by trans groups	50
	4.6 Policies and practices in education	51
	4.7 Equal Access to Goods & Services in Practice	53

CHAPTER 5 **56**

Making Healthcare and Public Health Insurance Coverage Accessible

5.1	Legislation on accessible healthcare and non-discriminatory insurance coverage	57
5.2	European and national case law on trans-specific healthcare	57
5.3	Policies on high standard of healthcare for trans people	59
5.4	Implementing high quality healthcare for trans people	62
5.5	Clinics' informed consent protocols for hormonal therapy	63
5.6	Patient-focused participatory Research	65
5.7	Access to trans-related healthcare for specific groups	65

CHAPTER 6 **68**

Empowerment for Trans Self-Organising & Representation

6.1	The Council of Europe's consultative approach with regard to legislative proposals	68
6.2	Policy consultation at regional and national level	69

CHAPTER 7 **74**

Awareness Raising & Campaigning

7.1	Awareness raising among Euro-parliamentarians	74
7.2	Awareness raising on the national and regional level	75
7.3	Awareness raising among the general public	75

CHAPTER 8 **78**

Training for Professionals

8.1	Setting the right framework for provision of training on trans health	78
8.2	Training for judiciary and law enforcement	80
8.3	Training and provision of resources for media professionals	81
8.4	Training and materials by trans civil society	81
8.5	Serving a diverse community	82

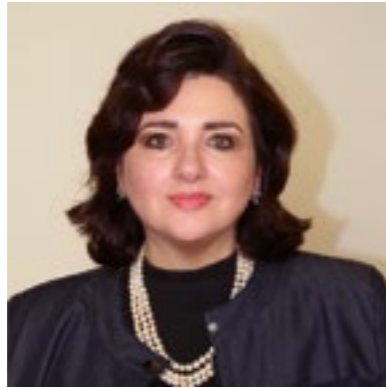
CHAPTER 9 **84**

Collecting Data on the Situation of Trans People

9.1	Data collection at the European level	84
9.2	Data collection at the national level	87
9.3	Data collection by civil society	88
9.4	Mapping trans diversity	91

ENDNOTES **92**





The second edition of this *Best Practice Catalogue*, only five years after the previous edition is testament to the progress that is being achieved in the field of trans equality, but also proof that much remains to be done to ensure a dignified life and full equality to this particular social group.

I am certain that this document will be especially welcomed by European ministers, policy makers and human rights advocates in a time when many governments are in the process of changing their laws to embrace trans diversity as a part of normality – exactly where it belongs.

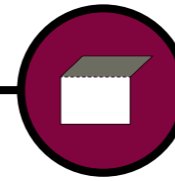
As this document tells us though, change in legislation needs to be followed up with policy initiatives to ensure mainstreaming across all spheres and sectors of society.

On a more personal note, since I became minister for Civil Liberties in 2013, my ministry frequently engaged with *Transgender Europe* and at every step we found much needed support and recommendations, or confirmation that we were going in the right direction.

A great partnership for progress.

Dr Helena Dalli

Minister for Social Dialogue, Consumer Affairs and Civil Liberties
Malta



INTRODUCTION

Human Rights and Gender Identity: Best Practice Catalogue is an updated civil society follow-up to the pioneering work of the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, and his 2009 Issue Paper entitled *Human Rights and Gender Identity*. In it, the Commissioner explored the human rights situation of trans people in depth, clearly showing that they remain one of the most vulnerable and discriminated-against communities due to inadequate legislation and social marginalisation. Through a set of twelve recommendations, the Commissioner called on Council of Europe Member States to respect the human rights of trans people and put in place concrete measures for the social inclusion and emancipation of trans people.

In 2011, ILGA-Europe and *Transgender Europe* produced the first *Best Practice Catalogue* as a response to frequent questions from policy makers and LGBTI organisations, that often asked them to provide advice on the implementation of the recommendations. This publication is a 2016 updated version of the 2011 catalogue. Our ambition is, as it was in 2011, to publish the most complete set of best practices that are known to us, to illustrate how each of the twelve recommendations can be met in legislation, policy and practice. In this updated version, we have moved away slightly from Hammarberg's recommendations, to allow space for new areas that have developed in the field since 2011. We hope that this publication will, like the previous one, inspire legislators, decision makers, equality bodies and human rights organisations to work towards a world free from discrimination on the grounds of gender identity and gender expression, that affords trans people the dignity and respect that they deserve.



Figure 0
Thomas Hammarberg presents the *Human Rights and Gender Identity Issue Paper* (2009)



CHAPTER 1

INTERNATIONAL LEGAL PROTECTION AND NON-DISCRIMINATION

RECOMMENDATION 1:

Implement international human rights standards without discrimination, and explicitly prohibit discrimination on the ground of gender identity in national non-discrimination legislation. The Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity should be used to provide guidance for national implementation in this field.

Gender identity and gender expression are increasingly recognised as grounds of discrimination on which specific protection is required. Indeed, an increasing number of provisions within European and national legislation refer to gender identity and gender expression and apply expressly to trans people. In addition, some national governments have gone a step further and adopted legislation that takes into consideration specific situations unique to trans people (e.g. employment protection during gender reassignment).

Unfortunately, despite recent progress, institutionalised transphobia and severe human rights breaches against trans people are still the order of the day across the European continent. In this context, the Yogyakarta Principles and other authoritative human rights documents can guide European institutions and national governments in protecting the fundamental rights of trans people and tackling discrimination based on gender identity and gender expression.



Figure 1
The Yogyakarta Principles (2006)

1.1 Endorsement of the Yogyakarta Principles at national level

The Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity are a set of internationally recognised principles intended to address violations of the rights of lesbian, gay, bisexual, trans, and intersex (LGBTI) people. They were developed at a meeting of experts held by the International Commission of Jurists (ICJ) and human rights experts in 2006 in Yogyakarta, Indonesia. The 29 principles were adopted unanimously by the experts, along with recommendations to governments, regional intergovernmental institutions, civil society, and the United Nations (UN).



Figure 2
LGBTI activists from around the world celebrate the 10th Anniversary of the Yogyakarta Principles at the ILGA World Conference in Bangkok, Thailand with UN Independent Expert on SOGI, Vitit Muntarbhorn. (2016)

Photo:
Lukas Berredo/TGEU

The principles have since then been endorsed by a number of different countries and regions around the world, including **Canada**, **Chile**, **Czech Republic**, and **Finland**, who all agreed to use the Principles in future policy development.¹ The **German** federal government endorses the Principles in its ninth report on human rights policy in international relations and other policy fields, and the **Netherlands** have used the Principles in forming a national Transgender Policy. In **Uruguay**, a bill protecting the right to gender identity and right to use a chosen name quotes the Principles as a legal framework.² Explicit support in general for the Principles have been made by the parliament of the Netherlands, in 2008, and by the German government, also in 2008.³

The ground-breaking **Maltese Gender Identity, Gender Expression and Sex Characteristics (GIGESC) Act**⁴ does not explicitly refer to the Principles, but has been hailed⁵ as clearly following the human rights standard of the Principles.

The endorsement of the Yogyakarta Principles is a very visible sign of good will towards the respect of LGBTI people's human rights. All national parliaments and governments are urged to endorse and work towards the full implementation of these principles at both the domestic and the international levels.

1.2 The United Nations human rights system's recognition of gender identity

The Universal Declaration of Human Rights (UDHR) does not expressly mention gender identity but it provides for an open list of protected grounds. Article 2 states:

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

In 2009, the Committee on Economic, Social and Cultural Rights (CESCR) underlined that:

“‘Other status’ as recognized in article 2, paragraph 2, includes sexual orientation. States parties should ensure that a person's sexual orientation is not a barrier to realising Covenant rights, for example, in accessing survivor's pension rights. In addition, gender identity is recognised as among the prohibited grounds of discrimination; for example, persons who are transgender, transsexual or intersex often face serious human rights violations, such as harassment in schools or in the workplace.”⁶



For updated information about gender identity issues at the UN level, consult the website of ARC International.⁷

1.2.1 The United Nations Human Rights Council resolutions on sexual orientation and gender identity

On 15 June 2011, the UN Human Rights Council adopted a historic resolution expressing its concern regarding violations of human rights and discrimination based on sexual orientation and gender identity⁸, leading to the *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity*.⁹ In March of 2012, the report was followed up by the first-ever formal UN inter-governmental debate on violence and discrimination against LGBT people, and a second resolution in 2014,¹⁰ which also contained instructions on a report that was subsequently published on 4 May 2015.¹¹

On 30 June 2016 the UN finally mandated the appointment of an Independent Expert on these issues.¹²

1.2.2 The United Nations Office of the High Commissioner for Human Rights, OHCHR

On 26 July 2013, the United Nations Office of the High Commissioner for Human Rights (OHCHR) launched UN Free & Equal, a worldwide public education campaign for lesbian, gay, bi, trans and intersex (LGBTI) equality. UN Secretary-General Ban-Ki Moon's support for LGBTI people was regularly featured in it. As part of the campaign the booklet *Born Free & Equal, Sexual Orientation and Gender identity in International Human Rights Law*¹³ was published in 2012, followed in 2016 by *Living Free & Equal, What states are doing to tackle violence and discrimination against Lesbian, Gay, Bisexual, Transgender and Intersex people*,¹⁴ with best practice and analysis.



Figure 3
“Let me say this loud and clear” – UN Secretary-General Ban Ki-moon.
Image: UN Free & Equal Campaign

On 29 September 2015, the OHCHR, together with 11 other UN entities (ILO, UNAIDS Secretariat, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UN Women, WFP and WHO), released an unprecedented joint statement calling for an end to violence and discrimination against lesbian, gay, bisexual, transgender and intersex people.¹⁵

On 25 November 2015 a programmatic overview of work done at UN level to combat discrimination and violence against individuals based on sexual orientation and gender identity was issued. The document contains useful information on the work done by OHCHR, as well as other UN entities.¹⁶

1.2.3 The recognition of the ground of gender identity by the CEDAW Committee

In 1979, the United Nations General Assembly adopted the *Convention for the Elimination of all forms of Discrimination Against Women (CEDAW)*¹⁷. In 2010 two recommendations¹⁸ were adopted by the CEDAW Committee, both affirming that “discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as [...] gender identity.” This leads to an obligation for state parties to CEDAW to address discrimination against trans women and to report the progress achieved to the Committee.

Since 2010, the CEDAW Committee has adopted two more recommendations referring to gender identity or transgender status.

In 2014, in a recommendation on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women,¹⁹ “transgender status” is referred to in explaining the possible intersectional discrimination women refugees might face, and in recommendations to states on women’s asylum rights and the situation for refugees.

In 2015 a recommendation on women’s access to justice was adopted,²⁰ in which “transgender”, as well as “intersex”, is included. In the context of discussing effects of criminal law, the recommendation also states that: “Women are also disproportionately criminalised owing to their situation or status, such as being involved in prostitution, being a migrant, having been accused of adultery, identity as a lesbian, bisexual or transgender woman or intersex person, having undergone an abortion or belonging to other groups that face discrimination.”

1.3 Gender identity within the Council of Europe human rights system

The Council of Europe (CoE) has been a global pioneer in the advancement of the application of human rights to trans people.

1.3.1 Convention for the Protection of Human Rights and Fundamental Freedoms

Article 14 of the *Convention for the Protection of Human Rights and Fundamental Freedoms*²¹ (ECHR) guarantees the principle of non-discrimination with regard to the set of rights that are established under the Convention. It states:

“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

While gender identity is not expressly referred to in the list, the European Court of Human Rights (ECtHR) clarified in the case of *Identoba and others v. Georgia*²² that “gender identity” is a protected ground under Article 14 (Non-Discrimination) of the *European Convention on Human Rights*.

1.3.2 Case-law of the European Court of Human Rights

Since 1992, the European Court of Human Rights (ECtHR) has ruled positively on a series of cases brought forward by trans people. These decisions concern:

- The right to gender recognition of what the court defined as post-operative transsexuals (*B v France*);²³
- The right to have one’s family life acknowledged, and a transsexual man to be recognised as having been “in every aspect” a father to his child (*X, Y and Z v. the United Kingdom*);²⁴

- The right to marry in accordance with the acquired gender (*Goodwin and I. v UK*)²⁵ (see 6.1.2);
- The right to fair and proportionate requirements related to gender reassignment (*van Kück v Germany*);²⁶
- The right to a pension in accordance with the acquired gender (*Grant v United Kingdom*);²⁷
- The right to adequate and clear gender recognition procedure for change of name and legal gender (*L v Lithuania*);²⁸
- The right not to be discriminated against on grounds of “transsexualism” (*P.V. v. Spain*)²⁹ and “gender identity” (*Identoba v Georgia*) within the scope of Article 14
- The right to not have to undergo sterilisation in order to have access to gender reassignment surgery (*Y.Y. v. Turkey*);³⁰
- The right to be explicitly included within the scope of Article 3, which imposes on the state a positive obligation to ensure that all individuals within its jurisdiction are protected against all forms of prohibited ill-treatment, including ill-treatment that is administered by private individuals. This is an important development because there is no margin of appreciation in relation to this Article (*Identoba and others v Georgia*).

While the ECtHR has been instrumental in advancing the recognition that trans rights are human rights, it is unfortunate that no cases of trans people who have been described as having some trans identity other than transsexual have yet reached the Court.

For further information on case law, consult the European Court of Human Rights’ factsheet *Gender Identity Issues*, (April 2016), online at: http://www.echr.coe.int/documents/fs_gender_identity_eng.pdf
All Member States of the Council of Europe have the political obligation to implement the judgements of the European Court of Human Rights into domestic legislation.

1.3.3 Protocol 12 to the ECHR

Like Article 14 of the ECHR, Protocol 12³¹ to the ECHR provides a general prohibition of discrimination on an open list of grounds. However, unlike Article 14, Protocol 12 applies to the exercise of any legal right and to the actions of public authorities without the need for this general prohibition to be linked to any other right guaranteed under the Convention. Article 1(1) states:

“The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”



Figure 4
Activists in Turkey protesting against recurrent police harassment against trans people. (2010)

Member States that have not yet signed and/or ratified Protocol 12 should follow the example set by the State Parties to the Protocol and accede to it without further delay.

1.3.4 Recommendation of the Committee of Ministers on the rights of LGBT people

In March 2010, the CoE Committee of Ministers adopted a *Recommendation on measures to combat discrimination on grounds of sexual orientation and gender identity*.³² They address many key issues for LGBT people, namely: (i) right to life, security and protection from violence ((a) “hate crimes” and other hate-motivated incidents and (b) “hate speech”); (ii) freedom of association; (iii) freedom of expression and peaceful assembly; (iv) right to respect for private and family life; (v) employment; (vi) education; (vii) health; (viii) housing; (ix) sports; (x) right to seek asylum; (xi) national human rights structures and (xii) discrimination on multiple grounds.

In 2013, Member States reviewed how they implemented the recommendations.³³ The recommendations still stand, and Member States should continue to strive towards their full implementation. The next reporting cycle for governments is due in 2018.

1.3.5 Work on rights of LGBTI people by the Commissioner for Human Rights

In 2011 the Commissioner, Thomas Hammarberg, launched a detailed report on ‘Discrimination on grounds of sexual orientation and gender identity’ for all 47 Member States of the Council of Europe, building on an extensive socio-legal study carried out on discrimination on grounds of sexual orientation and gender identity. Six thematic chapters give a broad overview of the human rights situation of LGBT persons and recommendations are provided for developing and implementing effective measures to address discrimination. The report is available on the website of the commissioner.³⁴



Figure 5
COE Human Rights Commissioner Nils Muižnieks at the 6th European Transgender Council in Italy (2016).
Photo: Laura Bessega

1.3.6 Resolutions and recommendations of the Parliamentary Assembly

In April 2015, the *Parliamentary Assembly of the Council of Europe (PACE)* adopted a historic resolution focusing on discrimination against transgender people in Europe. The Resolution and associated report address a variety of forms this discrimination takes, including difficulties in access to work, housing and health services, and transgender people being frequently targeted by hate speech, hate crime, bullying and physical and psychological violence. Transgender people are also at particular risk of multiple discrimination. The PACE members argue that the pathologisation of transgender identity by international diagnosis manuals is disrespectful to their human dignity and an additional obstacle to social inclusion.³⁵

The resolution further highlights that the Assembly is “concerned about the violations of fundamental rights, notably the right to private life and to physical integrity, faced by transgender people when applying for legal gender recognition; relevant procedures often require sterilisation, divorce, a diagnosis of mental illness, surgical interventions, and other medical treatments as preconditions. In addition, administrative burdens and additional requirements, such as a period of ‘life experience’ in the gender of choice, make recognition procedures generally cumbersome.”



Figure 6
Trans activists from around Europe spoke at the COE a day before the transgender resolution was presented at PACE. (2015)

Member States were called on to, for example, “explicitly prohibit discrimination based on gender identity in national non-discrimination legislation and include the human rights situation of transgender people in the mandate of national human rights institutions, with an explicit reference to gender identity”; “enact hate crime legislation which affords specific protection for transgender people against transphobic crimes and incidents; provide specific training to sensitise law-enforcement officials and members of the judiciary”; “develop quick, transparent, and accessible procedures, based on self-determination, for changing the name and registered sex of transgender people on birth certificates, identity cards, passports, educational certificates and other similar documents; make these procedures available for all people who seek to use them, irrespective of age, medical status, financial situation or police record”; “abolish sterilisation and other compulsory medical treatment, as well as a mental health diagnosis, as a necessary legal requirement to recognise a person’s gender identity in laws regulating the procedure for changing a name and registered gender”; “consider including a third gender option in identity documents for those who seek it”; “make gender reassignment procedures, such as hormone treatment, surgery and psychological support, accessible for transgender people, and ensure that they are reimbursed by public health insurance schemes”.

Trans people were also included in another resolution, on putting an end to coerced sterilisations and castrations, adopted by PACE in June 2013. It stressed that “coerced, non-reversible sterilisations and castrations constitute grave violations of human rights and human dignity, and cannot be accepted in Council of Europe Member States.”³⁶ The resolution defines “coerced”, and also states that “coerced sterilisations and castrations in Europe are mainly directed against transgender people, Roma women and convicted sex offenders.” The resolution concludes that the sterilisations and castrations “must stop”, and recommends that Member States “revise laws and policies”, “ensure that adequate redress is available to victims” and “issue official apologies and offer at least symbolic financial compensation”.

1.3.7 Reporting on homophobia and transphobia by the European Commission against Racism and Intolerance

The *European Commission against Racism and Intolerance* (ECRI) is an independent body of the Council of Europe, whose remit is to monitor work by Member States to counter racism and intolerance, and make recommendations to Member State governments on how to meet their obligations in these fields. It works to a five-year cycle, preparing reports on all the 47 Member States during that time. ECRI consists of independent experts, who are the Commission members, and who are appointed by the 47 Member States.

2012 marked the first time that Commission members interpreted the ECRI mandate as also being inclusive of sexual orientation and gender identity discrimination and violence. Since 2013, ECRI has been the first Council of Europe institution systematically monitoring human rights violations against LGBTI people. ECRI reviews will cover, as a minimum, hate speech and hate crimes based on sexual orientation or gender identity, but might also extend to legal gender recognition, trans-specific healthcare and other issues of concern for LGBT people. Country reports are available on the website of Council of Europe.³⁷

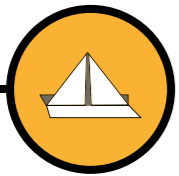
Information on how trans and LGBTI civil society can use ECRI is available on <http://tgeu.org/recommendations-from-ecri/>.

1.3.8 The SOGI-Unit at the Council of Europe

After years of struggle among the Member States, in 2014 the Council of Europe was able to include a unit dedicated to work on sexual orientation and gender identity in its official structure. In addition, the CoE Secretariat has an internal structure, the SOGI Taskforce, also established in 2014, that brings together all entities in the house working on issues related to SOGI and meets a couple of times a year.

The unit assists Member States in their implementation of the *Committee of Ministers LGBT Recommendations (2010)*⁵ with tailor-made assistance programs. The website’s database contains a lot of useful resources, including national and regional LGBT action plans and strategies,³⁸ a guide on how to make national action plans effective,³⁹ and a collection of good practice on local and regional level policies.⁴⁰

Member States are advised to reach out to the SOGI-Unit and benefit from their tailor-made assistance and expertise to advance the situation of LGBTI people domestically. Also States where LGBTI rights have been advanced should use the support to keep on advancing human rights in this area.



CHAPTER 2:

SAFETY AND SECURITY

RECOMMENDATION 2:

Enact hate crime legislation which affords specific protection for transgender persons against transphobic crimes and incidents.

Research shows a very high rate of occurrence of violence and hate crime (i.e. criminal offence committed with a bias motivation) against trans people. Indeed, 79% of respondents to a survey on transphobic hate crime conducted within the European Union, reported that they had experienced some form of harassment in public, ranging from transphobic comments to physical or sexual abuse.⁴¹ In spite of the prevalence of harassment and violence against the trans community, most countries in Europe do not have trans specific hate crime specific legislation. **Scotland**, the first jurisdiction in Europe to explicitly define transphobia as an aggravating circumstance has now been followed by **Albania, Belgium, Bosnia and Herzegovina** (parts of the country), **Croatia, France, Georgia, Greece, Hungary, Iceland, Malta, Montenegro, Portugal, Serbia, and Spain**.⁴²

In its Recommendation from 2010, the CoE Committee of Ministers has called for particular attention to hate crime and hate speech and urged Member States to:

“ensure that when determining sanctions, a bias motive related to sexual orientation or gender identity may be taken into account as an aggravating circumstance.”⁴³

The UN Human Rights Council in 2011 also recommended that Member States:

“Investigate promptly all reported killings and other serious incidents of violence perpetrated against individuals because of their actual or perceived sexual orientation or gender identity, whether carried out in public or in private by State or non-State actors, and hold perpetrators accountable, and establish systems for the recording and reporting of such incidents.”⁴⁴

The first UN Independent Expert on Sexual Orientation and Gender Identity has been mandated to work against violence and discrimination based on sexual orientation and gender identity, by raising awareness; identifying “root causes of violence and discrimination”; and addressing “the multiple, intersecting and aggravated forms of violence and discrimination faced by persons on the basis of their sexual orientation and gender identity”.⁴⁵

The good practice booklet *Living Free & Equal*, published by the UN in 2016,⁴⁶ recommends states to “enact legislation that prohibits incitement of hatred and violence on the grounds of sexual orientation, gender identity or expression and sex characteristics, and hate crime laws that treat discrimination on these grounds as aggravating factors for purposes of sentencing.”

Living Free & Equal also notes that asylum laws and policies “should recognise persecution on account of one’s sexual orientation, gender identity, gender expression or sex characteristics as a valid basis for an asylum claim and LGBT and intersex refugees should be treated with respect”.

The recommended best practice is that “states must ensure that people fleeing persecution on grounds of their sexual orientation, gender identity or expression or sex characteristics are not returned to a place where their life or freedom would be threatened, asylum laws and policies should recognise that persecution on such grounds may be a valid basis for an asylum claim, intrusive, inappropriate questioning on asylum applicants’ sexual histories, identity or bodies should be prohibited, and refugee and asylum personnel should receive adequate training.”

For further information on the positions of the UN, please refer to *The United Nations High Commissioner for Refugees (UNHCR)* that has published detailed guidance on the issue, setting out the standards by which States should apply their national refugee status determination procedures to asylum seekers fleeing persecution on such grounds⁴⁷. The guidelines call on states “to incorporate LGBT and intersex-sensitive measures into their asylum determination practice, including the provision of sensitivity training for those involved in the decision-making process, and guidelines on assessment procedures to ensure that claims are reviewed in an objective and sensitive manner, unhindered by stereotyping and cultural bias”.

Member States should abstain from introducing limitations to the right to seek asylum, such as fast track procedures or so-called safe-country lists, as these diminish the chances of LGBTI refugees being able to apply successfully for asylum.



Figure 7
Living Free & Equal.
United Nations (2016)

2.1 European and national legislation

2.1.1 Convention on Preventing and Combating Violence against Women and Domestic Violence

The *Convention on Preventing and Combating Violence against Women and Domestic Violence*⁴⁸ was adopted in Istanbul by the Committee of Ministers and opened for signatures in May 2011. While it does not specifically address the rights of trans people per se, it is the first international treaty that expressly refers to the ground of gender identity in Article 4(3) (non-discrimination).

Importantly, the Explanatory Report of the Convention elaborated gender identity as follows:

“Certain groups of individuals may also experience discrimination on the basis of their gender identity, which in simple terms means that the gender they identify with is not in conformity with the sex assigned to them at birth. This includes categories of individuals such as transgender or transsexual persons, cross-dressers, transvestites and other groups of persons that do not correspond to what society has established as belonging to ‘male’ or ‘female’ categories.”⁴⁹

Member States that ratify the Convention on Preventing and Combating Violence against Women and Domestic Violence should ensure that they take due account of the scope of the Convention with regards to trans people when implementing the Convention.

2.1.2 Victims' Rights Directive

On 25 October 2012 the European Parliament and the European Council adopted the Victims' Rights Directive on minimum standards on the rights, support and protection of victims of crime.⁵⁰ The directive includes an explicit mention of gender expression and gender identity as two of the protected grounds concerning discrimination against victims: "Crime is a wrong against society as well as a violation of the individual rights of victims. As such, victims of crime should be recognised and treated in a respectful, sensitive and professional manner without discrimination of any kind based on any ground such as 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, gender, gender expression, gender identity, sexual orientation, residence status or health."

It is also explicitly stated that trans people are included in the context of gender based violence: "Violence that is directed against a person because of that person's gender, gender identity or gender expression or that affects persons of a particular gender disproportionately, is understood as gender-based violence."

2.1.3 EU Asylum Legislation

On 13 December 2011 the European Parliament and the Council adapted the EU Asylum Qualification Directive.⁵¹ The Directive was highly important for the rights of European trans people, since it was the first time that "gender identity" was mentioned in binding EU legislation.

The Directive includes the following paragraph: "It is equally necessary to introduce a common concept of the persecution ground 'membership of a particular social group'. For the purposes of defining a particular social group, issues arising from an applicant's gender, including gender identity and sexual orientation, which may be related to certain legal traditions and customs, resulting in for example genital mutilation, forced sterilisation or forced abortion, should be given due consideration in so far as they are related to the applicant's well-founded fear of persecution."

In addition to this, under the Procedures Directive,⁵² people who conduct asylum interviews should be professionally trained in LGBT issues. They should also be capable of recognising the need for special procedural guarantees based on applicants' personal characteristics. In Article 15, it is clearly stated that Member States shall "ensure that the person who conducts the interview is competent to take account of the personal and general circumstances surrounding the application, including the applicant's cultural origin, gender, sexual orientation, gender identity or vulnerability".

Member States should ensure that trans-relevant aspects are taken into account when implementing EU Victims' Rights and Asylum legislation in law and practice.



Figure 8
UK Lesbian and Gay Immigration Group (UKLGIG) host a Christmas Party for 150 LGBT asylum seekers & refugees.
Photo: UKLGIG. (2016)

2.1.4 Scottish hate crime legislation

As stated above, **Scotland** was the first jurisdiction in Europe to expressly extend legal protection from bias violence and hate crime to trans people.

The *Offences (Aggravation by prejudice) (Scotland) Act 2009 (asp 8)* was passed by the Scottish Parliament in June 2009, and entered into force in March 2010. This Act extended the protection that was already in place for victims of prejudice crime motivated by their racial or religious characteristics to victims of prejudice crime motivated by sexual orientation, transgender identity or disability. The Act makes it clear that when determining sentences, courts must take into account offences motivated by malice or ill-will based on the victim's actual or perceived sexual orientation or transgender identity.⁵³

It is noteworthy that the definition of transgender identity found in this Act is inclusive of all trans identities, expressly covering:

- "a) transvestitism, transsexualism, intersexuality or having, by virtue of the Gender Recognition Act 2004, changed gender, or
- b) any other gender identity which is not standard male or female gender identity."⁵⁴

This broad definition of transgender identity was due to a productive collaboration between the Scottish Parliament and the *Scottish Transgender Alliance (STA)* and other equality groups that were consulted during the drafting of the Act.⁵⁵

2.1.5 Action Against Hate - The UK Government's plan for tackling hate crime

In the aftermath of the referendum on EU membership held in 2016, the numbers of hate crimes and incidents rose considerably in the **United Kingdom**. The Government's action plan "Action against Hate - The UK Government's plan for tackling hate crime"⁵⁶ responds to this challenge with a comprehensive set of measures for the period 2016–2020. Key elements are (i) preventing hate crime by challenging underlying beliefs and attitudes, including new in-school programs; (ii) increasing security measures in public space including public transport and online (where hate speech may occur); (iii) increasing reporting by working with under-reporting communities, such as transgender people; (iv) improving support for victims, including a systematic strengthening of victims' voices; (v) improving data collection and analysis, and thus increasing the understanding of hate crimes, with a focus on neo-Nazi networks.

Both the UK action plan and the UK Police College (2014) *Hate Crime Guidelines*⁵⁷ clarify that people who are “transsexual, transgender, transvestite and those who hold a gender recognition certificate under the Gender Recognition Act 2004” are covered by the characteristic “transgender identity”.

Public administrations that are in the process of adopting or extending domestic hate crime legislation should make sure to include sexual orientation, gender identity, gender expression and sex characteristics. Focus should also be put on how to prevent crimes from happening. During the drafting of such laws, and in working with prevention strategies, it is important that LGBTI civil society organisations are consulted and their suggestions are taken into account.

2.2 Data collection and LGBTI specific measures

2.2.1 Data collection on transphobic hate crime

The *Living Free & Equal* best practices booklet recommends that data on violence and hate crime should be collected “including disaggregation by sexual orientation, gender identity and sex characteristics, with data collection in line with human rights standards. Data collection should be carried out in collaboration with LGBT and intersex civil society organisations.”

The great difficulty with getting accurate data is addressed with the following suggestion: “One possible modality is to combine data from State-based reporting mechanisms with data collected through surveys on experiences of violence and hate crime conducted by civil society organisations.”

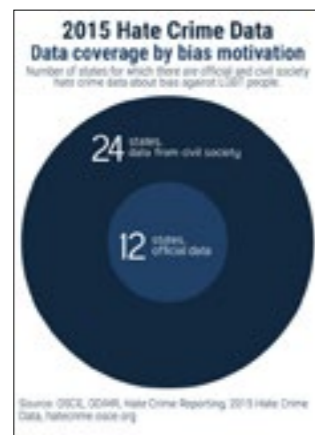


Figure 9
The OSCE ODIHR
2015
Hate Crime Data.

In the 2015 *Hate Crime Data*, released by the OSCE Office for Democratic Institutions and Human Rights (ODIHR),⁵⁸ twelve countries are listed as having data on bias-crimes committed against trans people. Those countries are: **Croatia, Denmark, Finland, Germany, Italy, Lithuania, Netherlands, Spain, Sweden, Ukraine, the United Kingdom and the United States of America**. Eleven of these countries are European, but nevertheless there is obviously a gap in knowledge about the occurrences and motivations of transphobic hate crime across the vast majority of European countries. By contrast, civil society organisations produced reports on LGBTI-phobic violence from 24 states.

There are, however, good practices that can be highlighted. In 2008, the **London Metropolitan Police Service** launched a survey to assess women’s experience of homophobia and transphobia.⁵⁹ The survey was aimed at assessing violence experienced by women and therefore cannot be considered as official data collection; however, it reports an alarming figure regarding under-reporting of hate crime incidents. In fact, 83% of the incidents mentioned by the women surveyed went unreported to the police.⁶⁰ This shows that a better system of data collection will not be enough if there is no engagement with the LGBTI and trans community to encourage reporting of hate crime incidents.

In 2014, the *College of Policing of the United Kingdom* released a set of hate crime guidelines for police officers, intended to improve the overall quality of police responses and reduce

underreporting. The guidance covers law, case studies and the standards that victims and witnesses can expect from officers dealing with this kind of incident. A key element is building public confidence in the capacity of the police force to respond to homophobic and transphobic hate crimes.

2.2.2 LGBT community liaison officers, LGBT guidelines and community involvement

In the **United Kingdom**, an increasing number of police forces are appointing specific LGBT liaison officers to improve dialogue with LGBT communities. Those officers act as spokespeople for the police forces and as a focal point for members of LGBT communities. In **Sweden**, the hate crime unit in Stockholm has received training on trans issues.

Besides two LGBT liaison police officers in **Berlin** the prosecutor’s office has one person working specifically on LGBTI crimes, to ensure proper prosecution, follow-up and contact with victims. The body search policy for the Berlin police since October 2011 enables trans and intersex persons to choose the gender of the person conducting the search: “The right to choose the gender (of the person conducting the search) shall apply for trans- and intersex persons in relation to all examinations and investigations, disregarding in which of the two contexts the police is acting.”

On top of the equality and diversity training received by all police officers in **Scotland**, around 90 LGBT liaison officers expand their knowledge on LGBT issues through seminars provided by LGBT organisations. As a result, they are better equipped to identify priorities and concerns related to LGBT issues and facilitate contacts in case of an emergency. Moreover, guidelines on care of trans people in police custody, which are based on respecting self-declaration of gender identity,⁶¹ have been produced, including information on searching trans people, while training sessions have been provided on the correct application of these guidelines.⁶²

The **Madrid Town Hall**, Spain supports a programme called STOP Homo-Transfobia, in conjunction with a local NGO. The helpline “SOS Homophobia” is directed at LGBTI people who suffer harassment, stalking, physical and verbal violence or any kind of discrimination based on their sexual orientation or gender identity. In both Madrid and Barcelona there are specific district attorney’s offices which specialise in dealing with hate crimes and all kinds of crimes based on the victim’s gender identity or sexual orientation.⁶³

In **Turin**, Italy specific training modules have been designed for the city’s municipal police force. Participants have received training in the areas of sexual orientation, gender identity, stereotypes, tackling hate crimes and hate speech, and prejudice and discrimination mechanisms. Training programmes were also designed to encourage acceptance and inclusion of LGBTI police officers in the workplace and show the value of diversity management in the municipal police force. The training modules were also an opportunity to enable local LGBTI associations to get acquainted with the police in order to enable collaboration in concrete cases of homo/transphobic violence and crime.

2.2.3 LGBT and Trans Police associations

In some instances, trans people’s interests are also supported by associations founded by police officers. Such organisations vary. Some of them are larger umbrella LGBT organisations while others, such as the *National Trans Police Association* (NTPA) in the **United Kingdom**, work specifically on trans issues. The latter provides support to trans and intersex police officers and to police officers dealing with trans and intersex people (among family mem-

bers, friends, and the general public), including through online means. Such police associations have a key role to play in restoring the trust of trans people in police forces, and hence in encouraging them to report hate crime. In **the Netherlands**, the 'Pink in Blue' (Roze in Blauw) LGBTI police network has extended to other Dutch local police forces following its success in Amsterdam.⁶⁴



Figure 10
A member of the NTPA attends the 1st World LGBT Conference for Criminal Justice Professionals. (2016)
Photo: JT Loh/Roze In Blauw Politie Amsterdam

2.3 Responses from organisations and the community

2.3.1 Community responses

In **Turkey**, civil society organisation *Red Umbrella* carries out home visits, supports and documents cases of trans people who have experienced violence or other human rights violations, and carries out evidence-based advocacy. *Red Umbrella* also publishes handbooks for ministries to inform them about issues facing trans people and sex workers, and organised round-tables with public officials in several provinces. *Red Umbrella* has also started a project focused on trans people's access to protection mechanisms after violence - including shelters and protection orders. The project will bring the shelter administrations, provincial directorates of family and social policies (which govern the shelter systems in provinces), security officials, municipalities, NGOs and other stakeholders together. The aim is to find ways to empower trans women survivors of violence through opening shelters for trans women or improving the conditions in existing shelters for trans women. A manual for officials is also planned.

The Trans House is a small shelter for trans people in Istanbul, which receives also small in-kind support from the Sisli and Besiktas municipalities. The equality unit of the Cankaya municipality, Ankara's biggest central district, also committed to serving trans people after intense advocacy efforts from *Red Umbrella*. The same municipality has also opened an HIV testing and counselling centre which serves people anonymously and for free - which, after more *Red Umbrella* advocacy, also serves LGBTI people and sex workers.

In **Hungary**, NGO *TransVanilla* has joined the *Coalition against Hate Violence in Hungary*, an initiative run by the *Ebony African Organisation*⁶⁵. Several of the organisations involved in the project have opened their services to trans survivors of violence and *TransVanilla* has been able to refer victims to free psychological care and legal assistance by participating in the coalition.

In **Kyrgyzstan**, NGO *Labrys* successfully mobilised international support against a law that would have criminalised the promotion of LGBTI rights. *Labrys* submitted a shadow report

to the UN's *Committee on the Elimination of Violence against Women (CEDAW)*, documenting the high level of institutionalised and day-to-day anti-LGBTI discrimination by government and state actors. The report included data on documented violent incidents against trans people, collected through the TGEU project ProTrans monitoring system.

LGBTI NGO *Labrys* also closely cooperates with the Sex Workers' Rights Organisation *Tais Plus*, including, for example, sharing an employee. The organisations learned that cooperating in an intersectional way enables them to better understand and provide inclusive support to all sex workers and trans people. In 2014, they also drafted a joint alternative CEDAW report on the situation of women sex workers, drug users and LGBTI people, and are now involved in the CEDAW coalition to implement the recommendations, which the government is also part of.

2.3.2 Trans-inclusive shelters in the United Kingdom

In the United Kingdom, the charity *RISE – freedom from domestic abuse* have worked towards including LGBTI survivors of domestic abuse in their work.^{xxvi} The charity makes it clear that they understand the specific situations that LGBTI victims can find themselves having to deal with, such as threats of being outed, limited family support, or having one's identity ignored, to try to make sure that everyone understands that they are welcome.

2.3.3 Hate No More Campaign

The Polish LGBTI NGO *Campaign Against Homophobia* produced two information publications under the Hate No More campaign, that involved partners from **Croatia, Hungary, Latvia, Lithuania and Poland**. The first report⁶⁷ studies prevalence, location, perpetrators; the impact of homophobic and transphobic violence and harassment on LGBT people; and the needs of LGBT survivors of homophobic and transphobic violence and harassment. The report provides key findings about the criminal justice system's response to such violence and harassment in the five countries.



Figure 11
Hate No More campaign logo. (2016)

The other report, *Toolkit for the Law Enforcement Bodies, Accommodating the needs of the Victims of Homophobic and Transphobic Hate Crimes*,⁶⁸ is an extensive publication with resources and advice for the police, prosecutors and courts. There is also information about what the Victims' Rights Directive requires, and a summary of the needs of victims of homophobic and transphobic hate crimes.

2.4 Rights of trans people in prison and detention

2.4.1 The Scottish Gender Identity and Gender Reassignment Prison Policy

Trans people in detention are at high risk of facing discrimination and violence from other inmates and from staff. The **Scottish** Prison Service has a trans custody policy that upholds self-declaration. The policy *Gender Identity and Gender Reassignment Policy for those in our Custody* was created in 2014 in cooperation with civil society organisations, and applies also to staff members. The policy builds on the 2010 Equality Act, where gender reassignment is a protected characteristic. The policy contains detailed instructions on, for example, reception

processes, accommodation and gender reassignment assistance requests. A person who is “permanently living in their new social gender” should be allocated to a custody unit with other people of that gender. A key element is the individual case management conference, where the detained trans person has the right to participate and to invite a trans civil society organisation to, as well. The case conference assesses the individual’s situation and takes decisions about placement and other issues.

The *Scottish Transgender Alliance* (STA), who worked for the policy to be adopted for more than six years, point to a number of strategic choices made to get the policy passed: using reference to equality legislation, pointing to the minority stress experienced by trans people, highlighting issues around the mental health of people in custody, and pointing out the safety risks for prisoners housed in incorrect facilities, using the policy as a draft until the Scottish Prison Service felt comfortable applying it across the board. Still, STA reports that there is a continuous need for training and engagement with prison authorities. In the future, the policy would need to factor in the needs of non-binary trans people.

2.4.2 The Trans, Gender Variant & Intersex Inmates Policy in Malta

In **Malta**, the correctional services have a *Trans, Gender Variant & Intersex Inmates Policy*,⁶⁹ which regulates accommodation (based on the legal gender, not genitalia), respect for gender identity, names and pronouns, and lays out procedures for access to clothing and “gendered equipment” (binders, breast prosthetics etcetera), registration, rubdowns and access to showers and changing facilities. However, it is not as clear on the right to self-declaration and participation as the Scottish policy.



Figure 12
The Maltese Trans, Gender Variant & Intersex Inmates Policy launched by Home Affairs Minister Abela and Civil Liberties Minister Dalli. (2016)

2.4.3 Review into the Welfare in Detention of Vulnerable Persons in the UK

The **United Kingdom** Home Office commissioned the report *Review into the Welfare in Detention of Vulnerable Persons*, published in January 2016. In it, Stephen Shaw critically examines the situation of vulnerable groups in immigration detention. The report recommends that transsexual people should be added to the list of groups that should never be put in detention because of the inability of the responsible authorities to provide an “appropriate, safe and supportive environment”.

2.4.4 The U.S. Prison Rape Elimination Act (PREA)

In the **United States**, the Prison Rape Elimination Act (PREA), passed in 2012, presents good standards in preventing, detecting, and responding to sexual abuse in prison. Employees have to be “trained in effective and professional communication with LGBTI and gender-nonconforming inmates and residents” including body searches; and to make sure that the screening process considers “whether the inmate or resident is, or is perceived to be, LGBTI or gender nonconforming”; “post-incident reviews” are required to consider “whether the incident was motivated by LGBTI identification, status, or perceived status.” Searching or physically examining for the sole purpose of determining the person’s genital status is completely banned.

The standard also mandates that transgender and intersex inmates and residents be given the opportunity to shower separately from other inmates and residents.

Most importantly, inmates have the right to report abuse inside (multiple channels) as well as outside (at least one channel) without having to fear being reprimanded. In 2010, the Bureau of Justice Assistance funded the National PREA Resource Center⁷⁰ to assist prisons in implementing the PREA standards.

2.4.5 The Sylvia Rivera Law Project’s support for trans people in prison

In the **United States**, the *Sylvia Rivera Law Project* (SRLP) offer extensive support, prison organising, legal services and advocacy work for the rights of trans people in prison⁷¹ as they say “our communities are overrepresented in a criminal legal system that works to further isolate them from their community.” The *Prisoner Advisory Committee* (PAC), has around 70 members who are trans, intersex, gender non-conforming people and allies who are currently incarcerated. Members of PAC work together with members of the rest of SRLP to develop work plans and national position statements, and to provide comments to the *National Prison Rape Elimination Commission*.

PAC has been created because of the strong belief of the SRLP that the people most affected by the systems of violence and oppression we fight are the best people to lead that fight. The SRLP *Prisoner Advisory Committee* (PAC) Blog shares stories of PAC members⁷² as a “tool to ensure that our people survive on the inside and their stories are shared on the outside.”

Read about SRLP efforts to improve PREA here: <http://srlp.org/board-of-correction-may-10-2016/>

Instead of increasing prison sentences, state and civil society actors should work together with civil society to investigate alternative forms of punishment that address the elimination of the root causes of transphobia.



Figure 13
The Sylvia Rivera Law Project

2.5 Resources on trans asylum and refugees

Trans asylum seekers and refugees are at an increased risk of becoming victims of harassment and violence. Their heightened vulnerability calls upon communities and authorities to intensify efforts to better prevent, protect and empower trans refugees against hate motivated violence.

2.5.1 Good Practices LGBTI Asylum Publication

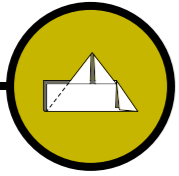
In May 2014, ILGA-Europe published *Good Practices related to LGBTI Asylum Applicants in Europe*.⁷³ The publication contains extensive information on EU law, positions from UNHCR and good practices from national level on discretion, credibility, late disclosure and internal flight alternatives, which are all problematic areas in asylum processes in EU countries, as well as LGBTI sensitivity training and special expertise, and conditions in reception facilities.

2.5.2 Welcome to Stay. Building Trans Communities Inclusive of Trans Asylum Seekers and Refugees in Europe

In October 2016, Transgender Europe (TGEU) published *Welcome to Stay. Building Trans Communities Inclusive of Trans Asylum Seekers and Refugees in Europe*.⁷⁴ The brochure follows up on the joint seminar of TGEU and ILGA-Europe on LGBTI asylum that was organised in Berlin in July 2016 and contains useful information on challenges for trans asylum seekers and refugees, examples of best practice, and information for communities in Europe that want to be more inclusive and supportive. The brochure was produced with the expert help of trans asylum seekers as well as lawyers and activists supporting asylum seekers.



Figure 14
"Trans Refugees Are
Welcome to Stay!"
(2016)



CHAPTER 3

QUICK, TRANSPARENT, AND ACCESSIBLE LEGAL GENDER RECOGNITION BASED ON SELF-DETERMINATION

RECOMMENDATION 3:

Develop expeditious and transparent procedures for changing the name and sex of a transgender person on birth certificates, identity cards, passports, educational certificates and other similar document

In recent years a few laws in Europe that fully, or almost fully, match the standards required in Recommendation 3 have been put in place. These, referred to in this chapter, can serve as good benchmarks for progress for governments and human rights organisations.

In 2015, the Council of Europe published a guide to legal gender recognition, *Protecting human rights of transgender persons*, with updated information of achieved legal standards so far in the Council of Europe region.⁷⁵ This is not a best practice catalogue, but gives good information about required minimum legal standards.

3.1 Legal Gender Recognition

3.1.1 Malta's Gender Identity, Gender Expression and Sex Characteristics Act

The Maltese Gender Identity, Gender Expression and Sex Characteristics Act ("GIGESC Act") from 2015 took inspiration from the 2012 **Argentinian** law. The law, however, goes further than the Argentinian one, as **Malta** enshrines in it the right of every citizen to have their gender identity recognised. The GIGESC Act thus breaks with the European gatekeeping approach. It also addresses issues pertaining to intersex persons by banning sex-assigning operations on intersex infants and children, who are unable to provide informed consent.

In Article 3, the right to gender identity is defined as follows: "(1) All persons being citizens of Malta have the right to - (a) the recognition of their gender identity; (b) the free development of their person according to their gender identity; (c) be treated according to their gender identity and, particularly, to be identified in that way in the documents providing their identity therein; and (d) bodily integrity and physical autonomy."

Other key features of the GIGESC Act are:

- The right to gender identity, gender expression, physical autonomy and bodily integrity, regardless of age;
- A quick, transparent, and accessible notary gender recognition procedure, where requirement of any psychological or medical proof is forbidden;
- Gender recognition is accessible to minors, recognised refugees and non-citizens in detention,
- Children have to be listened to in gender recognition proceedings, and their best interest has to be given paramount consideration;
- Criminalising unnecessary medical interventions or treatment on the sex characteristics of a person without their informed consent;
- Parent/s of intersex newborns can delay the registration of the gender marker in the birth certificate;
- It provides anti-discrimination protection across public services, the public sector and the private sector;

The full text is available online.⁷⁶ For a detailed analysis of this and other legal gender recognition laws in Europe, see TGEU's revised edition of the toolkit *Legal Gender Recognition in Europe*, published in December 2016.⁷⁷

3.1.2 Other best practice in Europe: Denmark, Ireland and Norway

More and more countries in Europe base their gender recognition procedures on self-determination. **Denmark** was the first one, on June 11th 2014, with the adopted amendment to the Act on the Civil Registration System.⁷⁸ The act allows trans individuals over the age of 18 to have their legal gender recognised based solely on their self-determination. When it came into force, it was the only gender recognition law in Europe that was based only on self-determination.

The significant paragraph in the law reads as follows in the English translation: "After a written application, The Economy and Domestic Ministry will allocate a new social security number to persons who experience themselves as belonging to the opposite gender. [...] After a reflection period of 6 months from the application date, the applicant has to confirm the application in writing. It is furthermore a condition that the applicant is 18 years old at the time of the submission of the application." While self-determination is good practice, the waiting period, the age limit and exclusion of trans people with a non-binary gender identity needs further work.

In July 2015, the **Irish** Government passed the Gender Recognition Act,⁷⁹ a bill providing the process that permits all individuals over 18 who are resident in Ireland or registered in the Irish registry of births to self-declare their own gender identity. Young people aged 16-18 can also apply to be legally recognised, but the process requires pathologisation.⁸⁰



Figure 15
Activists from the Transgender Equality Network Ireland (TENI) mark the first anniversary of the commencement of the Gender Recognition Act. (2016)

Norway became the fourth European country to adopt a legal gender recognition law based on self-determination, on 1 July 2016.⁸¹ The option of changing legal gender and name through a simple process is open to everyone over 16. Children over six can apply together with their legal guardians. The law has no requirements for diagnosis or medical interventions of any sort and there is no "reflection" period like the one in Denmark.



Figure 16
Norwegian activists
celebrate the adoption
of a gender
recognition law.
Photo: Helle Aasand/Blikk
magazine/Norway (2016)

3.1.3 Access to legal gender recognition for minors

So far, **Malta** is the only European country that grants full equal access to legal gender recognition regardless of age, and also the only country that has clarified in law that there will be no psychiatric diagnosis or medical intervention required to give access to minors. The GIGESC Act is also the only one that includes intersex people in the same protective legislation. With the amendments adopted on December 5 2016, the Malta GIGESC Act became accessible from age 16 (without parental consent), similar to **Norway**. Malta and Norway have detailed provisions on how to solve a situation if parents don't agree, putting the focus on the best interest of the child. In **Ireland**, legal recognition of gender is possible for people from 16, but the process is complicated and medicalised.



Figure 17
Maltese young
trans activist,
Willa Naylor.
Photo: Joanna Demarco.
(2015)

3.1.4 Access to legal gender recognition for people in prison

In December 2016, the **Malta** GIGESC Act was amended to enable non-citizens in detention to access legal gender recognition: "A person who is detained in any gender-segregated facility in Malta may have such person's gender recognised by means of an affidavit confirming such lived gender and the intention of the person to continue living according to such gender throughout the period of detention." This improves the policy concerning the rights of trans people in Maltese prisons, where allocation is based on gender marker, not self-determination.

The Maltese law forms a very good model for legal gender recognition elsewhere, as it caters to the different needs of a diverse trans community, ensures privacy and has transparent procedures. The ambition for decision makers should be to achieve complete de-medicalisation and base legal gender recognition procedures on self-determination. Check TGEU's *Legal Gender Recognition Toolkit* to assess whether (proposed) regulations are human rights compatible.



Figure 18
Legal Gender
Recognition
in Europe
Toolkit (2016)

3.2 Legislation on change of names and gender on civil status documents

3.2.1 Name change legislation following the common law tradition

In many countries following the common law tradition, everyone is able to change name through a deed of name change ('deed poll'). In the **United Kingdom** it is not necessary to register a deed of change of document. Instead, a standard legal document duly filled in by the person making the deed poll and signed in the presence of a witness carries the necessary legal authority to be recognised. The changed name is then accepted by various institutions including, among others, the passport office and banks. A name change through a deed poll does not amend the name on the birth certificate.⁸²

In **Ireland** a deed poll of change of name (*Athrú Ainm de réir Gníomhais Aonpháirtí*) is obtainable from the Central Office of the Four Courts in Dublin at the current cost of €120. For people under 18 this requires consent from legal guardians.

3.2.2 Sweden's application of general name legislation to trans people

Similar to several other countries, **Sweden** has a general name law (not trans-specific), to regulate names parents choose for their children as well as change of personal names later in life. Until 2009, all first names were linked to a particular gender, and thus a change of name was allowed as long as another name from the same gender register was chosen. Also available was a list of around 50 "gender neutral names". However, in 2009, the Supreme Administrative Court ruled that a person who is over 18 years has the autonomous right to determine the first name regardless of their legal gender. All adults can now freely choose any name

that they deem fit, irrespective of whether it was traditionally linked to their gender or not. This decision allows trans people to change their names to match their gender identity more closely.⁸³ In 2012, after written complaints were made by trans and LGBT civil society organisations, children between 12 and 18 were also allowed to change names with the consent of their legal guardians. At the same time, it became possible to change gendered last names.

General name legislation should be interpreted widely to enable trans people to change their names to ones that correspond better with their gender identities.

3.2.3 Germany's passport gender marker change

In **Germany**, under the *Transsexuellengesetz*⁸⁴ (Transsexual law) it is possible to change only the name, without changing gender marker. With this done, article 4 of *Paßgesetz*⁸⁴ (Passport law) states that the gender marker in the passport can be adjusted to match the gender of a first name changed under the *Transsexuellengesetz* but does not require a change in the officially registered sex. The above provision does not affect the officially registered sex though, as the applicant is obliged to confirm in writing that the gender marker in the passport has no authority to determine the person's legally recognised sex.

3.2.4 Entitlement to a revised employment certificate in Germany

In **Germany**, the Superior Court of Justice of Hamm (Westphalia) was presented with the question of whether or not a trans person has the right to have changes made on previous records on the employment certificate after a change of name or gender. In its ruling,⁸⁶ the Court stressed that every person has a right to an employment certificate, and that in the case of a trans person lost or destroyed files may not constitute a strong enough reason to refuse the rectification. In reality, even if the personnel file of the trans employee was destroyed due to a time lapse, the employer is still expected to provide a rectified employment certificate. The original testimony remains valid and the employer can adjust the name and undertake suitable grammatical and spelling adjustments as necessary, as long as no substantive changes are carried out.

3.3 Alternative identification cards

3.3.1 Trans Identity Cards in Poland

In **Poland**, trans rights organisation *Trans-Fuzja* took matters into their own hands, and since September 2014 it has been issuing “trans identity cards”. The purpose of the cards is to make life easier for people whose appearance sometimes or always differs from how they are presenting in their official identity documents. The cards have two photos, one that depicts the person as on the official ID card, and one with the alternative appearance. The name and number that appears on the official ID card is also included, to strengthen the identification. The cards are not officially recognised documents, but the experience is that they improve the situation for holders, for example when in contact with the police or when receiving mail and needing to identify themselves.

To be issued with a trans card, a person above 18 years of age provides a filled in form, two photos and a copy of ID to the office of *Trans-Fuzja*. The card is free of charge.



Figure 19
Trans-fuzja's
Trans Identity Cards.

Public administrations, or others, considering the introduction of alternative ID card systems are encouraged to refrain from using medicalised terminology on alternative ID cards. They should instead aim to use language that better reflects the diversity of the human experience of gender identity.

3.4 Removal of the requirement for sterilisation and other medical treatment

RECOMMENDATION 4:

Abolish sterilisation and other compulsory medical treatment as a necessary legal requirement for recognition of a person's gender identity in laws regulating the process for name and sex change.

Within the Council of Europe, around half of Member States that have legal measures that allow change of legal gender, require proof of permanent sterility or operations that inevitably lead to sterility prior to legal gender recognition.⁸⁷ This usually includes compulsory gender reassignment surgery.

These provisions unjustifiably link a legal procedure (gender recognition) with medical procedures (sterilisation and gender reassignment surgery). Such a link clearly violates trans people's right to physical integrity and their right to form and found a family. Compulsory medical procedures run counter to trans people's right to self-determination with regard to medical interventions, and often leave them with the dreadful choice between their continued ability to procreate on the one hand, and their rectified official papers reflecting their identity on the other. An increasing number of legal gender recognition procedures are drafted or reformed without requiring forced sterilisation, however.



Figure 20
“We'll also need
proof of sterilisation”,
still from TGEU campaign
video “34 Countries
in Europe Make this
Nightmare a Reality”.
(2015)

3.4.1 Removal of sterilisation requirements through legislation

Malta, Ireland, Denmark and Norway, have all removed the sterilisation requirement through the changing of an old law or by introducing a new one. In addition to these, in Europe,⁸⁸ **Belarus, Estonia, France, Iceland, Netherlands, Poland, Portugal, Spain, Sweden** and the **United Kingdom** have legislation that does not require sterilisation surgery prior to legal gender recognition. In these countries though, applicants are still expected to provide evidence of “gender identity disorder”, GID, or, for example, lengthy contact with psychiatric professionals, and this required diagnosis of a mental disorder or the like runs counter to the human rights standards required by Recommendation 4.

Outside of Europe, the legislative provisions that fully meet the standards indicated are found in **Argentina’s** *Ley de identidad de género* and **Uruguay’s** *Ley N° 18.620 Derecho a la Identidad de Género y al Cambio de Nombre y Sexo en Documentos Identificatorios*.⁸⁹ The latter goes as far as to explicitly prohibit a requirement of gender reassignment surgery for the purpose of legal gender recognition (Article 3). This inspired the legislators of Mexico City, as described previously. At the beginning of 2015, inspired by the Argentinian law from 2012, the government of the Federal District in Mexico introduced the option of changing legal gender.⁹⁰

3.4.2 Removal of sterilisation requirements through national case-law

In addition to the above laws, **Austria, Germany, Italy, Sweden, Switzerland and Ukraine** removed the sterilisation requirement through court rulings. **Austria’s** Higher Administrative Court⁹¹ ruled in April 2009 that mandatory surgery cannot be a prerequisite for legal gender recognition, when it followed the claimant’s argument that the required genital surgery would lead to a longer period of sick leave that could result in a potential job loss.

For more details on the rulings refer to TGEU’s revised toolkit *Legal Gender Recognition in Europe* (2016): http://tgeu.org/toolkit_legal_gender_recognition_in_europe/

Legislators should meet the standard set in *Yogyakarta Principle 3* which states that: “Everyone has the right to recognition everywhere as a person before the law.” and that “[n]o one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilisation or hormonal therapy, as a requirement for legal recognition of their gender identity.”

3.5 Dissociating Marital Status from the Gender Recognition Process

RECOMMENDATION 6:

Remove any restrictions on the right of transgender persons to remain in an existing marriage following a recognised change of gender.

The requirement for trans people to be ‘unmarried’ (also referred to as ‘the divorce requirement’) prior to their gender recognition is still very widespread in Europe. When this requirement was first introduced, its purpose was to preserve marriage as an unambiguous heterosexual institution consisting of opposite-sex spouses. It is hence both homophobic and transphobic, since it severely interferes with the privacy of both spouses and their right to have their existing marriage protected and respected. It also acts as a gatekeeper for those trans people who would like to transition but are not willing to divorce their spouses.

Paradoxically, the divorce requirement is frequently overlooked by legislators and may remain present in national legislation even in states that have introduced marriage equality for different-sex and same-sex partners.

3.5.1 Removal of ‘the divorce requirement’ through legislation

The laws previously mentioned as good practice, from **Malta, Ireland, Denmark and Norway**, all include the option of remaining in a marriage. The Maltese GIGESC Act Article 3.

2(a)-(c) makes this very clear:

(2) Without prejudice to any provision of this Act –

(a) **a person’s rights, relationship and obligations arising out of parenthood or marriage shall in no way be affected;**

(b) the person’s rights arising out of succession, including but not limited to any **testamentary dispositions** made in one’s favour, and any **obligations** and/or **rights** subjected to or acquired prior to the date of change of gender identity, shall in no way be affected; and

(c) any **personal or real right already acquired by third parties** or any privilege or hypothecary right of a creditor acquired before the change in the gender identity of the person shall in no way be affected.

3.5.2 Case-law of the European Court of Human Rights

On 16 July 2014, the Grand Chamber of the European Court of Human Rights issued the verdict in *Hämäläinen v Finland*.⁹² The Court rejected the claim that requesting a married trans person to convert their marriage into a registered partnership before being recognised in their gender identity is a violation of the right to private and family life, the right to marry, or the non-discrimination principle of the European Convention on Human Rights. The Grand Chamber argued that forcing the couple to transfer their marriage into a registered partnership which provides “almost identical (...) legal protection” and implies only “minor differences” were not disproportionate. This was a regrettable decision, but there are positive aspects in the dissenting opinion by the judges Sajó, Keller and Lemmens, who strongly support the protection of trans persons’ rights. They underline in their statement that it “is highly problematic to pit two human rights (...) against each other”, and conclude that therefore they “are unable to agree with the majority’s finding that the applicant has several acceptable options”, that “the interference with” the applicant’s and her wife’s rights “is not necessary in a democratic society.” The dissenting judges stress several facts of the case that the majority of the Grand Chamber ignored or did not consider carefully, e.g. that the applicant and her wife are religious and conversion into a registered partnership is not an option to them, and that one partner seeking legal gender recognition is not to be confused with a couple’s sexual orientation. It is also important to note that the outcome in a similar case where the option of registered partnership is not available might be different.

In this context it is also still relevant to mention the case of *Goodwin & I. v UK*,⁹³ concerning the right of transsexual persons to marry in accordance with their acquired gender. Following this decision the **United Kingdom** adopted the Gender Recognition Act 2004 to rectify its position with regard to its obligations under the ECHR. Moreover, following the entry into force of the Civil Partnership Act 2004, trans people are able to be in a legally recognised relationship irrespective of whether they are in a same- or different-sex relationship.

Since the passing of the *Marriage (Same Sex Couples) Act 2013* in the UK, the non-trans spouse must give their consent to a change of marriage status (from different-sex to same-sex and vice versa) before the transitioning spouse can receive a full Gender Recognition Certificate - GRC. If such consent is withheld, the marriage must be dissolved by divorce or annulled before a full GRC can be issued. Scotland’s *Marriage and Civil Partnership (Scotland) Act 2014* enables a married trans person whose spouse does not consent to apply to a Sheriff Court for a full GRC, on the basis of an interim GRC, without divorce or annulment having taken place.⁹⁴



3.5.3 National case-law on 'the divorce requirement'

Domestic constitutional courts of **Austria, Germany, Italy, France, Sweden, and Switzerland** have ruled that a change of sex on birth certificates should not require a mandatory divorce. For more details on the rulings, refer to TGEU's revised toolkit *Legal Gender Recognition in Europe* (2016): http://tgeu.org/toolkit_legal_gender_recognition_in_europe/

States are bound to protect families and the continuation of family life, and to protect those of their citizens who are in vulnerable situations. The divorce requirement runs counter to this duty and is hence simply illegitimate. Legislators should follow the examples of countries like Malta and remove any need for change in civil status prior to name change and gender recognition.

3.5.4 Gender neutral marriage certificate issued by the city of Vienna

Following the 2006 **Austrian** Constitutional Court judgment, married trans people do not need to obtain a divorce in order to have their gender legally recognised and have their civil status documents adapted to their new name and recognised gender. However, in spite of this judgement, the Ministry of Interior did not adapt Austria's civil-status-ordinance, and hence the marriage-certificate-forms continued to refer to the married same-sex partners as a 'man' and a 'woman'. Beyond being false, this had the consequence of outing the trans spouse on every occasion that they needed to present a copy of their marriage certificate, especially since in Austria same-sex partners are not yet able to marry.

In this context, the Austrian Administrative Supreme Court ruled⁹⁵ that the marriage certificate forms prescribed by the Minister of Interior were not adequate in such cases. Following this ruling, in January 2010, the Ministry of Interior amended the marriage certificate forms. The reference to the sex of the spouses was removed but trans people continued to be placed on the certificate in the place reserved for their former legal gender.

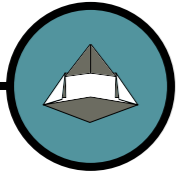
In November 2011, the **City of Vienna** decided to overcome this situation by issuing its own marriage certificates that alter the gendered positions prescribed by the Minister of Interior. The new certificates are entirely gender neutral and list the person who changed legal gender in the place that is appropriate for their gender, with the other same-sex partner being displaced instead. This solution is much preferred as it carries the legitimate aim of protecting the privacy of trans people.

3.5.5 "Parental markers" after change of legal gender

In **Sweden**, the Administrative Courts of appeal in Stockholm and Gothenburg have ruled that trans men who have given birth should be registered as fathers to their children in the population registry files.⁹⁶ The two cases are similar, with the main difference being that the man in Gothenburg had given birth when still having a female gender marker, while the man in Stockholm had already changed his legal gender before giving birth. In both cases, the defendant, the Swedish Tax Agency, had designated the petitioners as "biological mother," and refused to change its records, arguing that there was no basis under Swedish law for registering the petitioners as fathers.

For more details on the rulings refer to TGEU's revised toolkit *Legal Gender Recognition in Europe* (2016): http://tgeu.org/toolkit_legal_gender_recognition_in_europe/

Authorities should always handle the privacy of trans people with care. If necessary, temporary or ad hoc solutions should be introduced to mitigate existing legal or administrative oversights that may expose trans people to discrimination.



CHAPTER 4

EQUAL ACCESS TO EMPLOYMENT, EDUCATION AND GOODS AND SERVICES

RECOMMENDATION 7:

Prepare and implement policies to combat discrimination and exclusion faced by transgender persons in the labour market, in education and in healthcare.

In Europe, trans people face high levels of discrimination in all spheres of life. While case-law of the European Court of Human Rights (ECtHR), European Court of Justice (CJEU) and EU gender equality directives protect transsexual people against discrimination in employment and access to goods and services, such protection remains theoretic in a number of Member States as it has not yet been expressly transposed into national legislation.

In addition to legislation and case-law, the *Recommendation CM/Rec (2010)5 of the Committee of Ministers to Member States on measures to combat discrimination on grounds of sexual orientation or gender identity*, and its paragraph VI on education, can also be mentioned. In the non-binding recommendation, the Member States agreed to “take appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; this includes, in particular, safeguarding the right of children and youth to education in a safe environment, free from violence, bullying, social exclusion or other forms of discriminatory and degrading treatment related to sexual orientation or gender identity.”⁹⁷

4.1 European and national equality legislation

4.1.1 European Union legislation addressing the rights of trans people

In 1996, the CJEU ruled on the case of *P. v S. and Cornwall County Council*,⁹⁸ establishing that the principle of equal treatment between women and men enshrined in “Article 5(1) of the directive [76/207/EEC] precludes dismissal of a transsexual for a reason related to a gender reassignment.”⁹⁹ This decision was subsequently confirmed in the cases of *K.B. v National Health Service Pensions Agency and Secretary of State for Health*¹⁰⁰ and *Sarah Margaret Richards v Secretary of State for Work and Pensions*.¹⁰¹

Importantly, this principle was included in the scope of the EU’s directive tackling discrimination in access to goods and services (Directive 2004/113/EC);¹⁰² and in Recital 3 of the EU’s recast legislation in the field of employment and vocational training (Directive 2006/54/EC).¹⁰³ Unfortunately, a level of ambiguity remains as to whether all trans people are covered by existing legislation or whether protection is reserved for transsexuals, due to the legislation’s reference to ‘gender reassignment’.

In 2014 the EU *Fundamental Rights Agency* (FRA) warned that discrimination protection limited to gender reassignment might leave out about 50 per cent of the trans population. In light of high discrimination rates, FRA then recommended extending existing protections to cover discrimination related to the *gender identity* of a person.

On 5 May 2015 the European Commission clarified that existent EU sex discrimination law should be interpreted as protecting all trans people against discrimination.¹⁰⁴ In a non-binding report on the implementation of the Gender Goods & Services Directive, the Commission commented that, despite the lack of case law, *gender identity* discrimination should be treated on an equal footing with *gender reassignment* discrimination.

A similar FRA opinion has been corroborated by recast EU legislation in the field of asylum (Directive 2011/95/EU)¹⁰⁵ and in the area of victims’ rights, where gender identity and gender expression have been systematically included as grounds of anti-discrimination and provided with consideration for special protection.

In 2012 the European Commission published the report *Trans and Intersex people. Discrimination on the grounds of sex, gender identity and gender expression*.¹⁰⁶ The report contained a comprehensive analysis of discrimination protection under existing international, EU and national law.

On 7 December 2015, Commissioner Jourová presented the Commission’s List of Actions to advance LGBTI equality, which is to be implemented during the period 2016-2019. This is a first step by the Commission, and it needs to be followed up by a more comprehensively and regularly monitored programme that aims at improving the legal and social situation of LGBTI people in the EU, where there is ownership from the whole Commission.

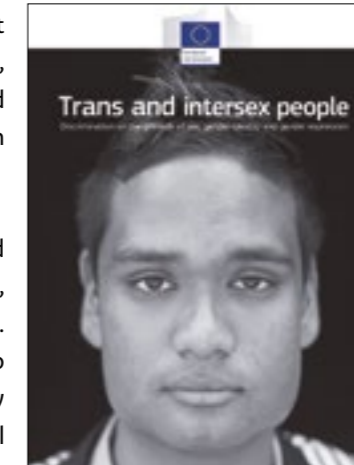


Figure 21
Trans and Intersex people. Discrimination on the grounds of sex, gender identity and gender expression



Figure 22
EU Commissioner for Justice Martine Reicherts, High-Level LGBT Conference 2014. Photo: FRA

For more information on EU legislation as it is applicable to trans people refer to: *Transgender Europe’s “Know Your Rights!” Guide*: www.tgeu.org/tgeu-guides-eu-law





Figure 23
TGEU's
"Know your Rights!"
Guide for Trans People
in the EU
(2015)

4.1.2 National anti-discrimination legislation

On 1 January 2014 **Norway** introduced anti-discrimination legislation prohibiting discrimination on the grounds of sexual orientation, gender identity and gender expression.¹⁰⁸ The scope of the law covers "all areas in society, apart from family life and other personal circumstances." The law targets direct and indirect discrimination, requires active work against discrimination and also specifies that positive action can sometimes be a method to achieve equality.

On 30 December 2014, **Finland** amended its gender equality legislation to add the grounds gender identity and gender expression.¹⁰⁹ The law is mainly directed at preventing discrimination in employment, but also includes section about access to education.

Included in the law is a requirement for government agencies and providers of education to actively prevent discrimination on grounds of gender, including gender identity and gender expression. The law prohibits direct discrimination as well as indirect discrimination.

In 2015, **Malta** introduced the Equality Act,¹¹⁰ outlawing discrimination in various spheres of life with the aim of promoting equality and preventing discrimination. The Act gives effect to relevant provisions of EU law, but also includes provisions on gender identity, gender expression and sex characteristics. The Act has a broad scope, prohibiting discrimination by "person, establishment or entity, whether in the private sector or within the public administration" in the fields of, for example, advertising, educational and vocational guidance, employment, and access to goods and services, including medical care.

Great Britain's Equality Act 2010¹¹¹ entered into force in April 2011 and brought together all previous equality legislation into one act of law that expressly includes the ground of 'gender reassignment' for the first time. In the new act, gender reassignment has ceased to be considered as a medical process related to the undergoing of surgical gender reassignment and is instead understood as a personal process and a ground of discrimination. The Act also affords trans people specific protection for periods of absence from work related to gender reassignment. Part 2 Chapter 2 Section 16 of the Act states:

"Gender reassignment discrimination: cases of absence from work"

- (1) This section has effect for the purposes of the application of Part 5 (work) to the protected characteristic of gender reassignment.
- (2) A person (A) discriminates against a transsexual person (B) if, in relation to an absence of B's that is because of gender reassignment, A treats B less favourably than A would treat B if—
 - (a) B's absence was because of sickness or injury, or
 - (b) B's absence was for some other reason and it is not reasonable for B to be treated less favourably.
- (3) A person's absence is because of gender reassignment if it is because the person is proposing to undergo, is undergoing or has undergone the process (or part of the process) mentioned in section 7(1)."

Beyond protection from discrimination, the Equality Act built on the separate equality duties relating to race, disability and gender equality and set a new mainstream *Public Sector Equality Duty*.¹¹² This duty places an obligation on public bodies to work to eliminate discrimination, harassment and victimisation, advance equality of opportunity, and foster good relations between different groups on each protected ground (including the grounds of 'sex' and 'gender reassignment').

National legislators should follow the examples set by, for example, Malta, Norway and Finland, and enact robust anti-discrimination legislation that takes trans people's rights fully into account. Gender identity and gender expression should be clearly included as autonomous grounds of discrimination. Anti-discrimination laws should also provide specific protection during gender reassignment related work absences and place positive equality duties on public administration. Furthermore, an equality body should oversee the implementation of the law/s, be able to take legal action and also propose legal amendments as necessary.

4.2 National Transgender Equality Action Plans

4.2.1 Malta National Action Plan

In July 2015, **Malta** released their LGBTIQ Action Plan for the years 2015-2017.¹¹³ The Action Plan was formulated by the LGBTIQ Consultative Council, with representatives from civil society, in partnership with the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties. The Action Plan consists of a number of concrete measures concerning, for example, law changes that were to be taking place during the coming years.



Figure 24
Malta's Prime Minister
Joseph Muscat and
the LGBTIQ Consultative
Council launch the
LGBTIQ Action Plan.
(2015).
Photo: Malta DOI/
Clifton Fenech.

4.2.2 Evaluation of the Norwegian LGBT Action Plan

Norway introduced their first LGBT Action Plan in 2009. The plan had a three-year span and was the first of its kind in Norway. It involved eight ministries and 64 concrete measures, and defined the LGBT knowledge centre as the driving force for change. The goals of the Action Plan were defined as, for example, that "LGBT persons should experience zero-tolerance for smears, threats, exclusion, violence and other forms of discrimination – in all sectors and arenas." In 2013 an extensive evaluation process started, and the aim was to have a new action plan for the years 2016-2019.¹¹⁴

4.2.3 The Welsh Trans Action plan and other UK initiatives

In March 2016, the **Welsh** Government published its Welsh Government Action Plan to advance equality for transgender people.¹¹⁵ The action plan consists of sections on children and young people, communities (including hate crimes and domestic abuse), public services, the workplace and more. The responsible minister (The Minister for Communities and Tackling Poverty) held consultations with members of the trans community, including young trans people, before finalising the action plan in the summer of 2015. The consultation period was 12 weeks, and the government was asking for comments on proposed actions. The consultation built on previous conversations and was structured around the themes of Children and Young People, Communities, Public Services, Striving for Equality, and potential gaps. The consultation was widely circulated to stakeholders and there were three focus groups with members of the trans community.

The action plan contains the results of input from the consultations and other sources, and a number of concrete actions, with a named responsible owner of each action, as well as a clear time frame. Concrete actions in the plan include: review existing materials and lesson plans for transgender inclusion and identify to what extent these are being used in schools; fund Community Cohesion Coordinators to work with local organisations and communities to increase awareness of hate crime and reporting; develop and implement an NHS (National Health Service) Wales Strategy for Wales, which will include a care pathway and guidance for healthcare practitioners, to be progressed as a priority. Any service realignment required to support the pathway should begin during 2016/17.

In 2011 an LGBT Action Plan¹¹⁶ and a specific *Transgender Action Plan*¹¹⁷ was launched, for the whole of the United Kingdom. The *Transgender Action Plan* covers a number of issues including education, employment, public services, access to healthcare, gender recognition and hate crime. As a response to this action plan, trans activists developed a trans manifesto¹¹⁸



Figure 25
Our Trans Manifesto was developed by trans organisations to ask political parties to commit to reviewing the Gender Recognition Act of 2004. (2014)

that was more focused and helped to set political priorities. If governments are unwilling, civil society should develop its own agendas or action plans on what it expects from politicians and other decision makers.

4.2.4 Other National and Regional Action Plans

In **Germany**, the lack of a national action plan has led to the creation of various regional ones.¹¹⁹ This creates the opportunity for local authorities to take comprehensive action, even if there is a lack of political action nationally.

A significant number of action plans, national and regional ones, can also be found in the database of the SOGI unit of

the Council of Europe. Here it is possible to browse through a number of examples from, for example, **Montenegro** and **Italy**, and also to get an impression of the contents from the thematic tags.¹²⁰

Trans people are unlikely to achieve equality in society unless specific and comprehensive equality action plans are adopted by central government. If no national action plan is possible for political reasons, regional or local ones can be an alternative. A comprehensive evaluation is necessary to follow up and make sure that the right measures are being taken.

4.3 Including Gender Identity in the Scope of Equality Bodies

RECOMMENDATION 11:

Include the human rights concerns of transgender persons in the scope of activities of equality bodies and national human rights structures.

The United Nations' *Principles relating to the Status of National Institutions (The Paris Principles)*¹²¹ define the responsibilities of national human rights institutions (including equality bodies) and their ability to submit opinions and recommendations on any issues related to the promotion and protection of human rights.

Furthermore, in Article 45 of LGBTI Recommendation, the CoE Committee of Ministers calls on Member States to:

“ensure that national human rights structures are clearly mandated to address discrimination on grounds of sexual orientation or gender identity; in particular, they should be able to make recommendations on legislation and policies, raise awareness among the general public, as well as – as far as national law so provides – examine individual complaints regarding both the private and public sector and initiate or participate in court proceedings.”

4.3.1 Legislation empowering equality bodies to deal with trans issues

While gender reassignment is clearly included in the coverage and scope of EU legislation, it has been less clear whether the *Gender Goods and Services Directive* 2004/113/EC and the *Gender Recast Directive* 2006/54/EC oblige Member States to provide their gender equality bodies with the remit to cover discrimination against trans people as well. This lack of clarity is manifested through the fact that not all equality bodies within the EU have undertaken work to promote equality for trans people – although there has been a definite increase over the past few years. But: the (non-binding) opinion from the European Commission¹²² in 2015 about the implementation of the *Goods & Services Directive* stated that gender identity cases would be materially treated in a manner similar to the way gender reassignment cases are treated. This should send a signal to national equality bodies to proactively include gender identity and gender expression in their mandate, particularly if they are also the relevant body in their country to implement and/or monitor the implementation of the *Victims' Rights Directive* and/or the *Istanbul Convention*.

4.3.1.1 Sweden's equality body law

In 2008, in a major restructuring of its equality legislation and implementation mechanisms, **Sweden** recast its various anti-discrimination laws and its ombudsman laws into just

two mainstream equality acts. One of them, *Lag (2008:568) om Diskrimineringsombudsmannen*¹²³ (Act concerning the Equality Ombudsman) brought the previous four single strand equality bodies into one institution, covering all of Sweden's seven equality grounds, which among others include 'gender', 'transgender identity and expression', and 'sexual orientation'. The Act provides the Equality Ombudsman (DO) with a wide remit to tackle existing discrimination with the purpose of ensuring that equality is mainstreamed in all areas of life.

When setting up or widening the scope of existing national equality bodies, national administrations should refer to Sweden's Act concerning the Equality Ombudsman, as it serves as an excellent model for proactive equality bodies that fully meet the recommendations of the CoE Committee of Ministers and Commissioner for Human Rights. A comprehensive evaluation is necessary to make sure that all ambitions with the legislation are realised.

4.3.2 Equality bodies' proactive policy work covering trans people

4.3.2.1 EQUINET's work to increase national equality bodies' coverage of gender identity

The European Network of Equality Bodies (EQUINET) acts as a platform at European level and supports its members' work through the sharing of good practice and the provision of training. The network includes a trans focus in its non-discrimination and gender equality work, including the 2015 report *The Persistence of Discrimination, Harassment and Inequality for women. The work of Equality Bodies informing a new European Commission Strategy for Gender Equality*¹²⁴ includes a chapter on the work done by national equality bodies on discrimination against trans people. The report also concludes that under-reporting by trans people is a recurring problem, as "trans people have particular anxieties about seeking help and do not know where to go to for help."

Making Equality Legislation work for Trans People,¹²⁵ from 2010, provides various recommendations to equality bodies and to the European institutions. The ten recommendations for member equality bodies revolve around, firstly, making trans issues a concern and taking the time to understand them; secondly, the internalisation of this knowledge in the equality body's work and making trans issues visible; and thirdly, the development of an outwardly focused approach through strategic casework, engagement with other stakeholders and direct communication with trans people.

Training activities for EQUINET members are organised in a way that takes into account discrimination against trans and intersex people. Thus in 2014, two training events, in Stockholm¹²⁶ and in Warsaw,¹²⁷ aimed to provide equality body staff members with a space for peer exchange and learning about gender equality and combatting harassment and sexual harassment, with a trans perspective on the topic.



Figure 26
Equinet,
European Network of
Equality Bodies
training event on
LGBTI issues held in
Stockholm,
Sweden in 2014.
Photo: Unn Tiba/Equinet

4.3.2.2 Interpretation of the Equality Act in Finland Guidelines by the Finnish Ombudsman for Equality

Finland's Ombudsman for Equality interpreted the Equality Act as covering trans and intersex people in its scope before there was a clear reference to gender identity in the Act. In addition, it took steps to protect trans people from discriminatory practices, for example through the publication of guidelines that clarify how the Act on Equality of Men and Women is applicable to trans and intersex people.¹²⁸

Throughout 2011, trans issues were a focus area for the Ombudsman. In this context, in May 2011, it organised a seminar on *Equality and Human Rights of Gender Minorities*. The Ombudsman has also called for an amendment of the Equality Act so as to include provisions on the protection of gender minorities against discrimination. It liaises and works closely with LGBTI, trans and intersex associations, and also has a representative in the Finnish intersectional LGBT working group.¹²⁹

4.3.2.3 Guidelines by the United Kingdom's Equality and Human Rights Commission

The United Kingdom's Equality and Human Rights Commission (EHRC) is very proactive in relation to the rights of trans people. It has published several documents on the subject and has called on the European Commission to propose gender equality legislation that is fully responsive to the needs and experiences of discrimination of trans people.

One of the highlights of the work of the EHRC is the publication of various guidelines and research reviews¹³⁰ that aim to guide public officials and service providers to provide inclusive and respectful services to trans people no matter the field that they operate in. Among many others, the EHRC has published guidance on gender reassignment discrimination, but also guidelines exploring the rights of trans people and tackling discrimination in relation to access to goods and services, access to healthcare, to employment, and name change, among others.

The EHRC engages with representatives from transgender and associated organisations to discuss systemic discrimination experienced by the trans community, and funds projects that promote trans equality.¹³¹

4.3.2.4 Research report on the situation of trans people in Belgium

In 2009, following a number of complaints of discrimination received from trans people, **Belgium's** Institute for the Equality of Women and Men took the proactive step of commissioning comprehensive nationwide research on the situation of trans people. The findings were then published in 2010 in a report entitled *Being transgender in Belgium: Mapping the social and legal situation of transgender people in Belgium*.¹³² The main recommendations of the report referred to: (i) the need to review the criteria for legal gender recognition; (ii) the importance of expressly including the grounds of gender identity and gender expression in the Belgian legislation; (iii) the protection of the right to family life; and (iv) the need for the provision of training to healthcare professionals.

4.3.2.5 Other national initiatives

In **Germany**, The Federal Anti-Discrimination Agency (FADA) invited trans and intersex representatives to the independent Expert Commission of the German Equality Body that was tasked with drafting a Gender Equality report including recommendations for the Thematic Year 2015, "Equal Rights. Every Gender."¹³³ The report is now available online.¹³⁴ In 2015 and 2016, the German Family Ministry organised three seminars to explore the situation of trans people in the country.¹³⁵

In **Estonia**, from 2013 to 2015, the Equality Commissioner's office supported the legal struggles of a trans man who was denied the right to have his name changed.

Other national equality bodies showed laudable initiative: The Human Rights Defender in **Poland** is planning research on trans people in the labour market; the Ombud for Equal Treatment in **Austria** commissioned an expert legal opinion to clarify the coverage of trans people under equal treatment legislation; in **Croatia**, the Ombudsman for Gender Equality is participating in a working group established by the Ministry of Health with a mandate to draft a new legal framework to facilitate legal gender recognition, and in **Serbia**, the Commission for Protection of Equality has established a joint expert working group to look at obstacles facing trans people, including during legal gender recognition processes.¹³⁶



Figure 27
A gender equality poster by the German equality body stating: 'No human being fits in a box'

National equality bodies that do not yet have a clear legal remit to cover the ground of gender identity are encouraged to be proactive. They should base themselves on the principle that discrimination against trans people is gender-based. They should also follow the examples elaborated in this chapter with regard to the conduction of research and awareness raising. National Equality Bodies have a key role in calling for legal reforms, bringing trans people into contact with policy makers and improving their access to justice.

4.4 Policies and practices in the labour market

4.4.1 TGEU's Toolkit and Call for action on Trans People's EU Employment Rights and National Gender Recognition Laws

In 2015, TGEU published the toolkit as a way of trying to change the fact that a larger percentage of trans people in Europe than the general population are unemployed. It provides an overview of current EU employment equality legislation tackling discrimination against trans persons and presents an analysis of how current national legislation regulating the change of names and gender markers on trans people's official documents impacts their enjoyment of employment and citizenship rights.

The toolkit also provides a checklist to assess whether Member States have adequately implemented EU law as it applies to trans people, and outlines current good practice across the Union.

Also included are six sets of recommendations setting out concrete action items for the EU, governments, companies/employers, trade unions, equality bodies, and trans rights organisations respectively.¹³⁷



Figure 28
The Trans Crossroads, Trans People's EU Employment Rights and National Gender Recognition Laws (2014)

4.4.2 UNISON's trans specific equality work

UNISON, the UK's largest public service union, has a LGBT section that has actively reached out to and recruited LGBT members at pride events and other LGBT gatherings. The union has made its LGBT equality work very visible and has published several documents that are addressed to trans people, trade union representatives and human resource managers. Among them, one finds:

- The Transgender workers' rights¹³⁸ factsheet, which provides information about the rights of trans people, and good practice for employers and branches of the trade union.
- Gender identity, an introductory guide for trade union reps supporting trans members¹³⁹ in which UNISON lays out guidelines for trade unions defending trans people's rights.
- The UNISON working for Intersex Equality¹⁴⁰ factsheet, aiming to increase understanding of intersex issues, raise awareness of human rights of intersex people, and equip UNISON reps to support intersex members.
- A general information section¹⁴¹ (online) with information about, for example, legal protection, and links to more resources.



Figure 29
Participants at
UNISON's trans
caucus meeting
in 2015.
Photo: Marcus Rose/
UNISON

4.4.3 Corporate social responsibility and equality indexing

In Europe, only a handful of companies have devoted specific attention to ensuring that trans employees feel included in their workplaces. Those that do, usually do so within the framework of their LGBTI diversity group. For such a framework to work well, however, such diversity groups need to actively reach out to trans employees or at least receive trans sensitivity training.

In its present form, *Workplace Pride* has existed since 2012. The “international platform for LGBT inclusion at work” is a non-profit foundation based in Amsterdam, the **Netherlands**. Workplace Pride's Members include the LGBT employee networks of both corporations and governmental organisations and, more recently, individual entrepreneurs and students. The organisation strives for greater acceptance of lesbian, gay, bisexual and transgender people in the workplace and in society. In 2016, the organisation published the report *NEW HORIZONS for LGBT Workplace Inclusion Global Benchmark Edition 2016*.¹⁴² Indexed companies were also evaluated on whether or not they had workplace equality policies, statements or the equivalent that explicitly referred to ‘sexual orientation’, ‘gender identity’ and ‘gender expression’, and whether or not they had transition-related individual support plans, e.g. relating to a person's transition. Good Practice examples mentioned are from Cisco, which has a policy stating that employees should select the bathroom aligned to the gender they identify with; Elsevier, which has conducted a survey on Gender Neutral toilets where 69% of respondents were in favour; Dow, which partnered with the *National Center for Transgender Equality* to ensure that the company's *Transgender Transition Guidelines* are the best-in-class; ABN AMRO, where the CEO has met with transgender employees.

In **Sweden**, RFSL, *The Swedish Federation for Gay, Lesbian, Bisexual, Trans and Queer Rights*, has conducted workplace training sessions for many years. Since 2010, the organisation has been offering a more extensive training program, resulting in a “HBTQ-certifying”, an LGBTQ certificate, which workplaces that have passed the training are free to use in their premises and in promotion.¹⁴³ To receive the certificate, extensive training of all staff members is required on several occasions over a period of around 6-8 months, as well as reviewing of internal and external written materials. So far, the main clients have been providers of health services, and youth centres. The training aims at improving performance both from a staff perspective and from a client/patient perspective.

While LGBTI and trans-specific initiatives in the business field are welcome and important, they must not be misunderstood as giving a company *carte blanche* in relation to its wider social responsibilities.

4.4.3.1 SAP Transition Guidelines

SAP SE (Systems Applications Products Societas Europaea, a **German** software company) developed guidelines to support transitioning employees, their colleagues and management, valid for the company worldwide. The guidelines spell out the right of a person who is transitioning to a fair and respectful working environment in conformity with the SAP value framework (Code of Business, the SAP Diversity Policy, Global Recruiting Policy and SAP core values).¹⁴⁴

They cover a variety of aspects, such as communicating about transitioning, external appearance (the right to express one's gender in contact with customers), access to sanitary and health facilities, the right to privacy, guidelines for management and human resources, information and support, confidential agreement, addressing colleagues' concerns, name change and usage of pronouns, payment continuation for trans employees, medical treatment and surgical interventions. Additional information is provided for management and employees. While this very hands-on advice is very helpful for transsexual people, it might need additional information to be fully applicable for employees with a less binary gender identity. Non-implementation of the guidelines can lead to disciplinary sanctions up to a dismissal.

4.4.4 Municipality of Madrid Trans Job Retraining Program

Since 2009 the city of Madrid, **Spain**, has had a programme targeting unemployed trans people and, more recently, also migrants who are trans. Initiated by the Ministry of family and social affairs, *Consejería de Familia y Asuntos Sociales*, and funded by the European Social Fund, the programme aims to train and employ trans people who have not been able to find other employment. The programme also works with awareness raising and anti-discrimination information. The programme was created with the aid of trans rights organisation *Transexualia - Asociación Española de Transexuales*, AET.¹⁴⁵

4.4.5 Social re-integration program Transcadiana (Sao Paulo, Brazil)

Transcadiana, a two-year programme incorporating education, training in job seeking skills, and information about career possibilities in, for example, food production and finance, was created in 2013 by Fernando Haddad, the mayor of São Paulo. The program launched at the beginning of 2014, with 100 unemployed trans people attending. The goal is that everyone attending will have at least a 9th grade education after the two years, but many manage to get a high school degree.

Support from social workers, psychologists and teachers is available, as is housing for those who need it. Participants also get a stipend to attend. A number of cities in Brazil are thinking about replicating *Transcadiana*, and other countries have also taken notice of the programme's successes.¹⁴⁶

4.4.6 Flemish government's trans-friendly employer guidelines

The **Flemish** government commissioned the *Belgian Transgender Info Point* to develop guidelines to make its public administrations a more trans-friendly employer. Key actions identified are:

- internal thematic training,
- psychological counselling for employees in transition
- clarifying the hospitalisation policy
- clear and discrete implementation of legal gender recognition without affecting the transgender employee and with a maximum respect for privacy.

The ambitious guidelines are available online.¹⁴⁷

4.5 Workplace Initiatives by trans groups

4.5.1 Transgender Network Switzerland's project Trans-Fair:

TGNS initiated the project "Trans-Fair" to improve workplace prospects for trans people.¹⁴⁸ The first step was a study investigating the employment situation faced by trans people in Switzerland. The second step was to commence the main part of the project: development and implementation of measures offering job seekers, employers, professional groups, employment agencies and authorities support and advice. The project unites leading Swiss companies, representatives of academia, trade unions and LGBT experts. Results are expected in 2017.

4.5.2 Transgender at Work (Berlin)

From 2013 to 2014, the project aimed to improve the situation of transgender people in the field of work and professional life, and was an initiative by Berlin Senate Department for Labour, Integration and Women's Issues.¹⁴⁹ The measures included, for example, information sharing,



Figure 30
Transgender
at work
in Berlin.
Photo: LADS/
Anja Weber

including offering expert panels and strengthening legal certainty. Working methods included bringing together "key personalities" in the working world and transgender organisations, to bring about a sustainable improvement in the situation of transgender people in the field of work and professional life. The project is a good example of how EU funds reserved for public authorities can be used to work on trans-specific topics.

4.5.3 Mentoring program by TransInterQueer (TriQ) and SonntagsClub (Berlin)

This project is a pilot project aiming at creating increased opportunities for trans people in working life, and contributing to increasing networks. The target group is people who have experienced difficulties in getting a job. Participants in the project also get a mentor that provides them with knowledge and contacts. The program lasts for a year, and includes, for example workshops and meetings with mentors. The program is funded by the Federal Foundation Magnus Hirschfeld.

4.5.4 Career Development Workshops and leadership summits for Trans People (Dublin)

In 2015, Irish trans organisation TENI, together with Express YOUR Gender, hosted a 5-week programme to help trans people move forward in their careers. The programme included workshops about, for example, CV writing, job applications and doing interviews, and also created a network for trans people looking for jobs. The programme ran twice, with good results. This led to the creation of the Trans Leadership Summit, Telling MY Story, which ran in the autumn of 2016 with 30 trans participants. The summit was a collaboration between TENI and Accenture.

TENI works with diverse employers to ensure workplaces are more trans inclusive and to help remove some of the barriers that trans people face when seeking employment. During the summit, communications experts, recruitment specialists and trans advocates provided advice on how to harness the power of personal stories. Telling MY Story participants learned how to tell their stories with confidence by improving their communication skills; discovered ways to talk about their trans journeys positively, clearly and succinctly; got advice on applying for roles and navigating the recruitment and interview process; developed and practiced their networking skills; and heard how trans leaders used their stories to effect change.



Figure 31
Participants
of TENI and
Accenture's event
"Telling MY Story"
(2016)
Photo: TENI

4.5.5 Transgender at Work (Belgium)

In 2013 (revised in 2014), the Equal Opportunities in Flanders and the department of Work and Social Economy in Belgium issued a brochure in collaboration with several organisations, *Transgender People at Work. Tips and information for employers and employees*. The brochure contains suggestions on policies for companies on employees transitioning, general information on trans issues, including non-binary issues, the legal framework, and contact information for trans organisations.

4.6 Policies and practices in education

Trans students may face compounded forms of harassment and discrimination during their studies. Beyond unsolicited comments and stares, trans students may experience difficulties in convincing fellow students, teachers and administrative staff to address them with pronouns that correspond to their appropriate gender roles and names. They may also face difficulties in having their names and gendered references changed in all educational records (e.g. student cards, university certificates and other qualifications) or in being able to wear a uniform in conformity with their gender (when uniforms are in use). The results of this may be decreased school performance up to leaving school early, and it can also have a considerable effect on mental and physical health.

4.6.1 Malta educational policy and procedure

In Malta in 2015, the Ministry for education and employment released policy¹⁵⁰ and procedure¹⁵¹ booklets on trans, gender variant and intersex students in schools. The policy aims to: "[f]oster a school environment that is inclusive, safe and free from harassment and discrimi-

nation for all members of the school community, students and adults, regardless of sex, sexual orientation, gender identity, gender expression and/or sex characteristics; Promote the learning of human diversity that is inclusive of trans, gender variant and intersex students, thus promoting social awareness, acceptance and respect; and Ensure a school climate that is physically, emotionally and intellectually safe for all students to further their successful learning development and well-being, including that of trans, gender variant and intersex persons.”

The procedures booklet clarifies the needs of trans students, and gives recommendations on how to respect students’ gender identities in relation to, for example, dress codes and the use of names and pronouns. Strategies against bullying and the need for psychological support are also mentioned, and the options for getting new school certificates are clarified: “A student who has changed their legal gender may also request the school to re-issue or exchange any official document or certificate relative to them according to their new name and gender.”

4.6.2 Trinity College Dublin Gender Identity and Gender Expression Policy

In June 2014, the Equality Committee of Trinity College **Dublin** adapted the *Gender Identity and Gender Expression Policy*.¹⁵² The 20-page document refers to the *Employment Equality Act* and the *Equality Status Act*, and outlines the formal commitment to recognise and support every individual’s gender identity and gender expression and promote a tolerant environment.

The policy includes, for example, descriptions of procedures to follow when a student transitions, instructions on how to adapt names on records, information on support available and descriptions of training packages. Detailed checklists and flow charts on procedures for different situations are practical tools for educational administration and staff.

4.6.3 Turin University’s trans inclusive policy

In 2003, the Equal Opportunity Committee of the *University of Turin* adopted a Code of Conduct that prohibits any discrimination or offensive behaviour based on sexual grounds. In addition, the University made it possible for trans students to have two identical result transcripts, whereby one indicates the official name and the other the name corresponding to the gender identity. This practice also helps trans students to overcome difficulties while following courses and sitting for exams in the event that their chosen names do not match their official ones. This policy was also adopted by the Polytechnic Institute of **Turin** in 2011.

4.6.4 Name change on education certificates at the university in Luzern

In **Luzern, Switzerland**, the administration at the *University of Lucerne* is able to change a person’s first name and gender, if the applicant requests this in writing and signs it personally. There is a leaflet that clarifies the rules and provides information, and there is also a form, which makes the procedure standardised.¹⁵³

4.6.5 Sweden’s project tackling transphobia in schools

In its effort to tackle homophobia and transphobia in schools, RFSL *Ungdom*, the **Swedish Youth Federation for Lesbian, Gay, Bisexual, Transgender and Queer Rights**, in cooperation with the government agency *The Living History Forum*, published a guide entitled *Break the norm: methods for studying norms in general and the heteronorm in particular*.¹⁵⁴ In simple language and through the use of various visual aids, this guide explains the mechanisms of gender stereotypes and heteronormativity and how they lead to discrimination against LGBT people. This guide was successfully used in school settings and helped teachers to facilitate a discussion on the impact of gender stereotypes. The perspectives employed in such debates have also helped students better understand how certain norms have a disproportionate impact on some

communities, and thus become more aware of the mechanism of discrimination against LGBT people. The cooperation between RFSL *Ungdom* and *Living History Forum* has continued with, for example, an LGBTI Swedish history project.

4.6.6 Anti-Bullying Work in Ireland

The Department of Education and Skills in **Ireland** has published a number of resources outlining anti-bullying procedures for primary and post-primary schools.¹⁵⁵ The resources clarify responsibilities and give direction and guidance to school authorities and school personnel in preventing and tackling school-based bullying behaviour among their pupils and in dealing with any negative impact within schools of bullying behaviour that occurs elsewhere.

The procedures adopted in 2013 require all schools to formally adopt and implement an anti-bullying policy that fully complies with these requirements, and to make that policy available to school personnel, parents and pupils. An LGBT specific resource is available on the department website.¹⁵⁶

4.6.7 Embracing Diversity – proposals for an education free of homophobia and transphobia

In 2015, Spanish authorities prepared a report on bullying in schools in **Spain** with educational resources, recommendations, prevention and intervention strategies, as well as a legal and incidence-based analysis.¹⁵⁷ The authors say they wanted to go beyond preventing bullying and to progress to considering the sexual, family and gender-identity diversity that exists in all schools as an educational opportunity to contribute to creating a new kind of school.

The initiative was within the framework of the “Understanding Discrimination, Recognising Diversity” (“Conociendo la Discriminación, Reconociendo la Diversidad” or CORE) Project, conducted by the *Institute for Women and for Equal Opportunities (Instituto de la Mujer y para la Igualdad de Oportunidades)* as part of the European Commission Directorate-General for Justice’s PROGRESS programme. The document includes detailed suggestions on how to act in situations of bullying, and provides additional practical resources.

4.6.8 Certificates for trained trans-sensible schools in Spain

Fundación Daniela, an organisation working for the rights of youngtrans people, provides training and awareness raising for education professionals, students and parents, offering a “Gender Inclusive - certified by Fundación Daniela” plate to schools that have received specific training. The plates are motivators for schools to carry out this training.¹⁵⁸



Figure 32
The
“All gender
inclusive”
certificate.
Image:
Fundación Daniela

4.7 Equal Access to Goods & Services in Practice

4.7.1 Belgian Gender Equality Body supporting legal claims

The **Belgian Institute for the Equality of Women and Men** provides tailored legal assistance targeted at trans people. Trans people can turn to a lawyer for legal advice and, if necessary, also for legal representation. Most requests deal with denial of access to insurance contracts or denial of cost coverage for trans-specific healthcare, and have already resulted in friendly settlements and case law securing trans people’s rights to access insurance services.

4.7.2 Gender neutral toilets

In July 2016, the **Maltese** government decided that all ministries were required to introduce gender neutral toilets in all buildings by September the same year.¹⁵⁹ In a press release, the pol-

icy was explained: "Gender neutral toilets ensure privacy and eliminate discomfort for trans and gender variant persons [...] These bathrooms reflect the Government's policy in favour of gender mainstreaming by ensuring that toilet facilities are easily accessible and functional, as well as the Government's policy against gender stereotypes and gender discrimination."

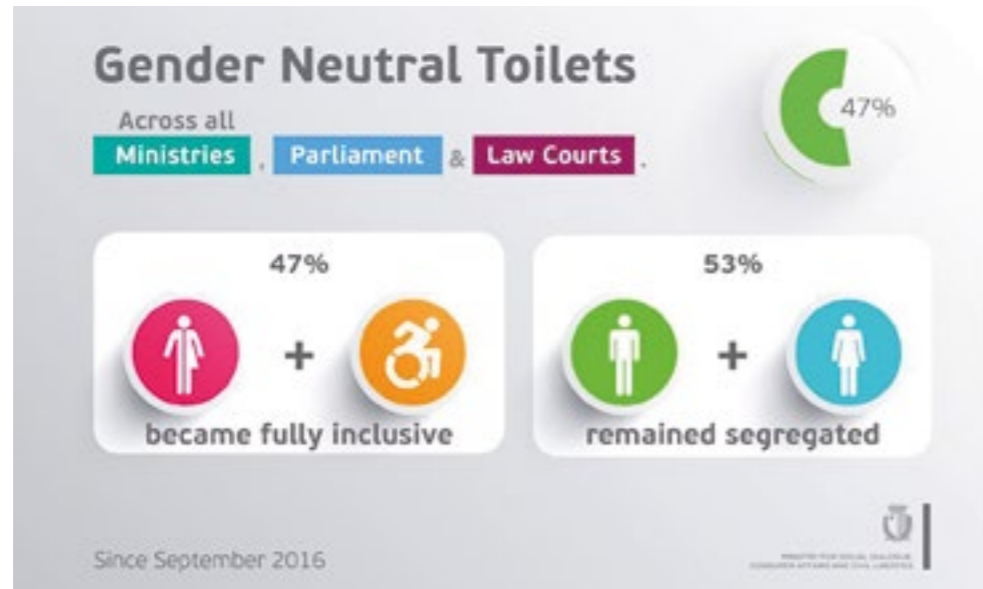


Figure 33
An infographic explaining the introduction of gender neutral toilets in Maltese government buildings (2016)

In the **Netherlands**, Leiden University¹⁶⁰ tried out gender neutral toilets in the summer of 2016, and at the same time the Utrecht city council became the first council in the Netherlands to vote to introduce gender neutral toilets throughout council-owned buildings.¹⁶¹ D66, the party that had initiated the legal change, stated after the vote: "As an open house of democracy in the heart of the city, this is a fine symbolic place to begin with toilets for everyone." Later that summer, Amsterdam followed the example of Utrecht.¹⁶²

In Berlin, **Germany**, gender neutral toilets, or unisex toilets have been available since 2013.¹⁶³ Museums, libraries and schools in Friedrichshain-Kreuzberg have special unisex toilets alongside other available options. In the same year, Brighton & Hove City Council, **United Kingdom**, decided to make the toilet facilities in a new development gender neutral.¹⁶⁴

4.7.3 Free metro passes for trans people in Madrid

In Madrid, **Spain**, thirty-eight free annual metro cards were handed out to local trans organisation *Asociación Transexual-Espanola Transexualia*.¹⁶⁵ The initiative was done to "promote integration", and cards were to be handed out to trans people experiencing social exclusion. Metro de Madrid said that they considered it a priority to sensitise the population to avoid discrimination and prejudice, and that they wanted to be part of working in favour of respect for diversity.

4.7.4 Trans Swimming sessions

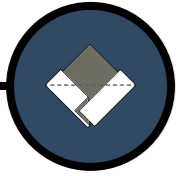
In several places in Europe, there are initiatives on swimming sessions, aimed at creating safe spaces for trans people in swimming pools. In **Berlin, Germany**, once a month, there is a pool reserved for trans and intersex people, arranged in cooperation with an LBT sports club and the LGBT NGO *Sonntags-Club*. Events are advertised on Facebook.

Trans Swimming Brighton is for "for anyone whose gender expression has been keeping them from swimming."¹⁶⁶

The *Transgender And Gender-Nonconforming Swimming group* (TAGS) organises swimming sessions in the Glass Mill swimming pool in Lewisham, **London**, to which trans and non-binary people from all over the southeast of England come. Similar initiatives have been set up in **Birmingham**, north London, and one is planned for **Liverpool**.¹⁶⁷

4.7.5 Civil society collaboration with care providers in Switzerland

The *Trans* specialist group* is a self-organised network in **Switzerland** of about 50 people active in the healthcare sector (especially psychiatrists, endocrinologists, and surgeons) who have trans clients. Among the specialists are several trans-identified people. The legal counselling service of the *Transgender Network Switzerland* (TGNS) collaborates with the group on different levels: accompanying individuals getting in touch with the healthcare sector; providing training for hospitals on how to approach trans people respectfully; collaborating in advocacy efforts by, for example, publishing treatment recommendations, or engaging in joint strategic litigation.



CHAPTER 5

MAKING HEALTHCARE AND PUBLIC HEALTH INSURANCE COVERAGE ACCESSIBLE

RECOMMENDATION 5:

Make gender reassignment procedures, such as hormone treatment, surgery and psychological support, accessible for transgender persons, and ensure that they are reimbursed by public health insurance schemes.

Throughout Europe, trans people's access to healthcare, especially to medical gender reassignment procedures, is severely impaired due to the fact that a number of doctors do not approve of trans people's transitioning or are simply unwilling to help.¹⁶⁸ Moreover, the cost of the procedures is often not covered (or only partially covered) by the appropriate public or private health insurance schemes, leaving a significant bracket of trans people without access to the required procedures.

Without a doubt, medical reassignment procedures are crucial for many trans people in order to be able to live a dignified life. The *World Professional Organisation for Transgender Health* (WPATH) has recognised this need as well as the need to have trans related medical measures covered by public and private health insurance, and has stated:

“The WPATH Board of Directors urges state healthcare providers and insurers throughout the world to eliminate transgender or trans-sex exclusions and to provide coverage for transgender patients including the medically prescribed sex reassignment services necessary for their treatment and well-being, and to ensure that their ongoing healthcare (both routine and specialised) is readily accessible.”¹⁶⁹

During recent years the problems with inaccessible healthcare for trans people have been addressed by various political decisions. Council of Europe Member States agreed that all Member States in Europe “should take appropriate measures to ensure that transgender persons have effective access to appropriate gender reassignment services, including psychological, endocrinological and surgical expertise in the field of transgender healthcare, without being subject to unreasonable requirements; no person should be subjected to gender reassignment procedures without his or her consent.” Also the aspect of cost coverage was explicitly addressed: “Member States should take appropriate legislative and other measures to ensure that any decisions limiting the costs covered by health insurance for gender reassignment procedures should be lawful, objective and proportionate.”¹⁷⁰

The *Parliamentary Assembly of the Council of Europe* (PACE) urges member states to “make gender reassignment procedures, such as hormone treatment, surgery and psychological support, accessible for transgender people, and ensure that they are reimbursed by public health insurance schemes; limitations to cost coverage must be lawful, objective and proportionate”. PACE also called on states to “include transgender people explicitly in suicide prevention research, plans and measures; explore alternative trans health-care models, based on informed consent; amend classifications of diseases used at national level and advocate the modification of international classifications, making sure that transgender people, including children, are not labelled as mentally ill, while ensuring stigma-free access to necessary medical treatment”.¹⁷¹

5.1 Legislation on accessible healthcare and non-discriminatory insurance coverage

5.1.1 Informed consent: The Argentinian gender identity bill and health guidelines

Beyond it being good practice in terms of change of name and legal gender, **Argentina's** *Ley de identidad de género* also represents good practice on access to trans-related health services on the basis of informed consent and coverage under the state's Obligatory Healthcare Plan. It was the first law to acknowledge that legal procedures in relation to gender recognition and medical procedures consist of two separate processes that should not be linked or allowed to interfere with one another.

Article 11 (right to free personal development) of the *Argentinean Gender Identity Law* guarantees the right to comprehensive gender reassignment treatment for all adults, free of charge and depending only on the informed consent of the individual concerned. These provisions, along with coverage of all medical procedures under the state-funded Obligatory Healthcare Plan, make hormonal treatment and/or surgical interventions available to all trans people. Decree 903/2015¹⁷² clarifies that that gender affirming treatments mentioned in Article 11 of the *Ley de identidad de género*, are to be covered by the “Compulsory Medical Program”, which means that there will be no additional costs for those with private or trade union-run insurance plans.

In 2015, non-binding guidelines for Argentinean healthcare providers on trans health¹⁷³ were published, informing them on how to practically implement the legal right to access gender reassignment treatment based on informed consent for adults. In case parents or other legally responsible parties are not willing to give their authorisation to treatment for a minor, a judge can take this decision. The guidelines are also non-binary inclusive.

5.1.2 Access to trans healthcare in Spain's regions

In **Spain**, the medical services needed by trans people are not currently in the catalogue of services of Spanish Social Security. Some *Comunidades Autónomas* (Autonomous Communities) have enacted laws or regulations that establish, at least theoretically, access to trans-specific healthcare. For example, **Asturias** does not have a law, but has a protocol providing for full treatment coverage for trans people.

The **Balearic Islands** and **Castile-La Mancha** have reached agreements with other *Comunidades Autónomas* for referral of patients. Also, **Galicia** has no legally-based healthcare cost coverage. Nevertheless, in 2013, the Spanish Tribunal Supremo (Supreme Court) ordered the Galician administration to pay for all gender reassignment treatment (including surgical intervention) for a transsexual person. Given that the Galician public health system did not have the logistical means to proceed with said treatment, it had to cover the claimant's treatment in Catalonia.

Legislators should always take trans people's healthcare needs into account when regulating public or private health insurance costs coverage related to gender reassignment and related therapy.

5.2 European and national case law on trans-specific healthcare

5.2.1 No automatic one-size-fits-all rules

On 8 January 2009, the European Court of Human Rights decided in the case of *Schlumpf v Switzerland*.¹⁷⁴ This case concerned the refusal by the applicant's health insurers to pay the costs of her gender reassignment surgery on the ground that she had not complied with a two year



waiting period, as required by the case law as a condition for payment of the costs of such operations. The Court held that there had been a violation of Article 8 (right to respect for private and family life) of the Convention. The waiting period had been applied mechanically without having regard to the age (67) of the applicant, whose decision to undergo an operation was likely to be affected by that delay, thus impairing her freedom to determine her gender identity.

5.2.2 No blanket ban on gender affirming treatment on the NHS

In a verdict on 29 July 1999, the Court of Appeal judged in the case of *North West Lancashire Health Authority v A, D and G*.¹⁷⁵ The court held that it is unlawful for NHS (National Healthcare Service) organisations to impose anything that amounts to a blanket ban on funding for gender treatment, even for a limited period, because “gender dysphoria is a medical condition” and, as such, should be treated on the NHS.

5.2.3 Insurance company obliged to cover needle epilation by private provider

On 15 March 2016 the **Berlin** social court ordered a public insurance company to cover costs for the removal of a trans woman’s facial hair, undertaken by a private service provider. The court followed the claimant’s argument that the public medical services did not offer the medically necessary treatment within an acceptable time frame.¹⁷⁶

5.2.4 Insurers are not allowed to discriminate against trans people

According to the **Belgian** equality body, the *Institute for the Equality of Women and Men*, approximately 10% of complaints are about discrimination against transgender people. The complaints are often about problems with insurance companies, and can range from exclusions, to additional costs or the refusal to reimburse certain medical expenses. Because of this situation, the Institute has created a leaflet with advice about insurance.¹⁷⁷ Supported by the legal aid service of the Institute on September 6 2016, a trans woman won in court against her insurance company. The claimant had undergone gender reassignment treatment and had been legally recognised as a woman in 1998. In 2013 she wanted to take out hospitalisation insurance through her employer. The insurer only wanted to agree to this if costs related to “gender dysphoria” were excluded. This would mean that the reimbursement of all future costs that were somewhat related to her transgender identity could be refused. The Court ruled that insurance companies cannot discriminate against trans people by, for example, using general exclusions from what is covered by insurance.¹⁷⁸

5.2.5 Depathologising trans identities and banning conversion therapies

In May 2016, **Denmark** announced its intention to depathologise trans identities in the national catalogue of diseases, if the WHO did not complete its revision process and change the International Classification of Diseases, the ICD, by October. Denmark is now reworking its classification of diseases to replace any reference to trans identities as mental health conditions with codes enabling medical treatment for those who seek it.¹⁷⁹

The **Malta** GIGESC Act was amended in 2016 to end pathologisation of all sexual orientations, gender identities or gender expressions: “The pathologisation of any form of sexual orientation, gender identity and, or gender expression as may be classified under the International Classification of Diseases or any other similar internationally recognised classification, shall be null and void in Malta. The nullity of such classification shall not impact negatively the provision of any healthcare service related to sex and, or gender.”

In addition to this, it is now illegal in Malta to attempt to change a person’s gender identity by, for example, conversion therapy. A trans healthcare protocol still needs to be developed,¹⁸⁰

but the inclusion of the guaranteed access to healthcare sends a clear instruction to healthcare practitioners to ensure equal access to discrimination-free healthcare.

In January 2009 **Sweden**’s National Board of Health and Welfare decided to remove various diagnostic codes related to trans identities from the Swedish issue of ICD-10 (ICD-10SE). These were F64.1 Dual-role transvestism; F64.2 Gender identity disorder of childhood; F65.0 Fetishism and F65.1 Fetishistic transvestism. **Norway** followed in January 2010. Its Helse-direktoratet, removed F64.1 Dual-role transvestism; F65.0 Fetishism and F65.1 Fetishistic transvestism from the Norwegian version of the ICD. In May 2011 **Finland**’s National Institute for Health and Welfare decided to remove F64.1 Dual-role transvestism; F65.1. Fetishism and F65.1 Fetishistic transvestism from the Finnish version of the ICD.

States should ensure that trans identities are not treated any longer as mental illnesses in diagnostic manuals or in practice. They should also work towards treatment protocols that ensure and improve access to trans-specific healthcare based on informed consent for those who seek it.

5.3 Policies on high standard of healthcare for trans people

5.3.1 World Professional Association for Transgender Health’s standards of care

The *World Professional Association for Transgender Health* (WPATH) developed internationally recognised *Standards of Care* (SoC) for the treatment of “gender dysphoria” and the promotion of health and welfare for trans people. These standards are an important source of reference for any training specifically addressing trans-related healthcare provision. The latest version of the SoC¹⁸¹ has also made strides in focusing on the well-being of trans people with strong reference to their human rights, while moving away from conceiving trans identities as (mental) disorders.

5.3.2 New Guidelines for Trans care for Adults and Children (Sweden)

In April 2015, the **Swedish** government agency Socialstyrelsen, National Board of Health and Welfare, published two extensive guideline documents with the recommended standard of gender reassignment treatments in Sweden. The guidelines are not mandatory for healthcare providers, but they still send a strong signal about recommended best practice and they aim to provide equal care, accessible for more people regardless of where in Sweden they live. Accessible documents for trans people as well as health care providers were published along with the guides, to inform about best practice and what is recommended. Everything is available online.¹⁸²

The guidelines contained strong wording about the need for healthcare providers to respect everyone’s gender identity, human rights and the right to health, and to not discriminate against trans people. There was also an emphasis on the fact that a “diagnosis” does not equal “sickness/disease”, but should be seen simply as a way of accessing healthcare, and that there is a need for healthcare professionals to use the preferred names and pronouns of their patients. The guidelines were written with knowledge of existing problems.

The guidelines recommend access for more people than just those with the diagnosis “transsexualism”, which, previously, was often the only group that had access to gender reassignment treatments. They also advocate for the use of hormonal treatments early in the treatment protocol. Also recommended in the guidelines is that feminising facial surgery could be included in healthcare and then provided without cost for the person needing it.



In the guidelines about care for children and youth, it is emphasised that legal guardians rarely have the legal right (and even more rarely the moral right) to stop a young person from making initial contact with a gender reassignment team and initiating an assessment. The minor's needs are in focus, and the need for primary healthcare providers to refer the young trans person to one of the specialist teams as soon as possible is emphasised. There is also strong wording about the potential suffering that can be avoided if puberty can be stopped with the use of hormones.

The problems addressed in the documents are still not solved, and many people trying to access healthcare in Sweden end up waiting for a long time. There are also still differences in accessibility between different regions.

5.3.3 Blueprint for the Provision of Comprehensive Care for Trans People in Asia and the Pacific (Trans Health Blueprint)

In 2015, The Asia Pacific Transgender Network, (APTN) in collaboration with, among others, WHO and UNDP, produced the *Trans Health Blueprint*, which contains information about trans and intersex people, human rights law, human rights issues for trans people in the region, and guidelines for care, including care for gender-diverse children and youth. The document is available online.¹⁸³ The purpose of the document is to “strengthen and enhance the policy-related, clinical, and public health responses for trans people in Asia and the Pacific. The primary audience for the Blueprint is health providers, policymakers and governments. The information within the Blueprint could also serve donors, bi- and multilateral organisations and trans and other civil society organisations.”

The document puts a lot of focus on human rights issues, and lists problems experienced by the trans community in the region. There is also a list of advocacy issues prioritised by the community, that needs to be addressed by policy makers, such as “take comprehensive measures to tackle violence”, “ensure legal protection from discrimination”, and “ensure that trans people are legally recognised and protected under their self-defined gender identities”. With regards to access to health services the following points are stressed: the need for equal access, and the addressing of discrimination, as well as improvement in the quality of gender-affirming healthcare. The document contains lots of examples of best practice from around the world, as well as statements from regional trans community members about their experiences.



Figure 34
Images from
APTN's campaign
“Demanding Care:
Stories of Transgender
Healthcare Discrimi-
nation in Thailand”
which accompanied the
launch of the
Trans Health Blueprint.
Photos: APTN/Wong/
Russel/Muangpaisarn
(2016)



5.3.4 Making Primary Care fit for trans-healthcare and the work of NHS, United Kingdom

The *Gender Identity Research and Education Society* (GIRES), has developed “The Gender Variance e-learning course” designed to help general practitioners respond to the needs of adults and young people experiencing gender dysphoria.¹⁸⁴ The course has been developed because of increased demand: “The numbers of trans people presenting for medical help are rising rapidly with waiting lists for access to specialist providers growing longer. The mental health of those unable to access treatment is likely to deteriorate gravely. GPs (General Practitioners) have a crucial role in providing appropriate medical care, leading to very positive outcomes.” The idea is also to enable trans people, including non-binary or non-gender people, to engage in a more positive way with their GPs when seeking medical help. Trans people trying to access healthcare in the **UK** still experience a lot of problems with long waiting lists.

The course is available online at the website of *Royal College of General Practitioners* (RCGP).¹⁸⁵

In January 2016, the *House of Commons Women and Equalities Committee* published a report on *Transgender Equality*.¹⁸⁶ The report is important for highlighting how non-specialised care-providers can and should engage in trans-specific care. The report describes problematic experiences faced by trans people engaging with general practitioners and notes for example that there are examples of GPs who “refused to prescribe [hormone therapy] to transgender and non-binary people, and to undertake assessments and investigations, even though they have been advised to do so by physicians in the specialist gender identity clinics.”

The report goes on to stress that “NHS England has responded to this issue by publishing a *Specialised Services Circular* (SSC1417, March 2014) which is consistent with the *General Medical Council's* good practice guidance in *Prescribing and Managing Medicines and Devices 2013*. The circular clarifies that general practitioners are responsible for the prescription of hormone therapy as recommended by the specialist gender identity clinics; for patient safety monitoring procedures; for provision of basic physical examinations within the usual competences of GPs; and for blood tests as recommended by the specialist gender identity clinics.” The report is based partly on information that came in during a formal inquiry on trans equality. Submissions came in from different stakeholders and other relevant actors. The submissions from the NHS can be read here online.¹⁸⁷

Figure 35
“Gender recognition should be centred on the wishes of the individual, rather than on intensive analysis by doctors and lawyers.”
Social media infographic accompanying the launch of the report.



The National Health Service (NHS) has previously made its trans people’s health support visible both through its work and on its website, where a dedicated webpage is set up.¹⁸⁸ Over the years, the NHS has also developed various guidelines and leaflets that aim to provide support to trans people and their families, and to improve the knowledge of healthcare practitioners.

5.4 Implementing high quality healthcare for trans people

5.4.1 National Health Service, Scotland

Since 2014, NHS **Scotland** has been working in partnership with the *Scottish Transgender Alliance* and other trans and LGBT groups to improve healthcare services for transgender people through the *National Gender Identity Clinical Network for Scotland* (NGICNS).¹⁸⁹ There are three NGICNS steering group meetings a year, together with an annual general meeting open to the public, three trans community engagement consultation events each year spread across Scotland, and short-life working groups (such as a non-binary healthcare group) which include additional trans representatives.

NGICNS has created improved gender reassignment guidelines and hormone prescribing and monitoring endocrine guidance for GPs. It has pushed for improved resourcing of Scottish Gender Identity Clinics to reduce waiting times and has succeeded in improving provision of hair removal treatment and breast augmentation surgery. It identified and successfully removed a barrier which had been preventing non-binary people from accessing NHS chest reconstruction surgery without taking testosterone. Through NGICNS, the NHS and the *Scottish Transgender Alliance* are collaboratively writing a detailed information booklet to assist transgender people in accessing healthcare from gender identity clinics and general medical services. NGICNS also assisted in ensuring NHS IT systems were updated to enable trans people to receive appropriate automatic cancer screening invitation letters after changing their gender markers on their medical records. Previously, for example, a trans man who still had a cervix would have been unable to continue to receive cervical screening invitations if he changed his gender to male on his medical records.

NGICNS is in the early stages of working in partnership with the *Scottish Transgender Alliance* to develop and deliver trans equality training to a range of healthcare professionals around Scotland.

The official mission statement for NGICNS is:

“The *National Gender Identity Clinical Network for Scotland* (NGICNS) aims to work with gender identity clinics, gender reassignment surgical providers, primary care, patient and third sector representation to achieve timely, coordinated service provision and equitable access to planned gender identity clinical services across Scotland. To achieve these aims NGICNS will bring together service users, health care professionals, gender identity service providers, parents, carers, young people and voluntary sector groups interested in the provision of gender services.

NGICNS will: Monitor gender service provision to achieve a high quality, holistic service to improve quality through the promotion of best practice and shared learning. This will be achieved through the development of standards and the establishment of continuous quality improvement systems and processes. Increase awareness of gender identity issues within general clinical and educational establishments to encourage sensitivity and an understanding approach towards gender service users. Develop clear recommendations for the provision of coordinated and equitable gender identity service provision which are easily accessible to all. Develop a NGICNS database for analysis and research purposes. Agree methods for auditing current and future service provision. Identify, assess and support education and training needs of service providers involved in the delivery of the gender service. Develop high quality and reliable information resources which are easily accessible to all. Establish effective inter-professional and inter-agency relationships to optimise patient care.”

5.4.2 Increased funding and accessible information (Flanders, Belgium)

The number of people needing gender reassignment treatments in Flanders has been increasing rapidly since 2010, and in order to meet the increased demand, the Ministry of Health increased the budget for healthcare significantly for 2016. According to **Belgian Transgender Infopunt**, a first point of contact for trans people, their loved ones and an interested public, there are a number of explanations for this. There has been increasing attention in academia and in the media, and projects funded by the Flemish Government, such as *Transgender Infopunt*, provide more information and better care.

The specialist team of the Ghent University Hospital supported the creation of *Transgender Infopunt* (Info point), an explicit non-clinical structure developed to outsource social and other non-medical aspects of care to create more capacity for actual medical specialisation, reduce waiting time, and improve the trans healthcare experience. *Transgender Infopunt*, among other things, provides a detailed map of trans-specific healthcare-providers in Belgium.¹⁹⁰

5.5 Clinics’ informed consent protocols for hormonal therapy

5.5.1 Community Centers and Clinics in the United States

Several clinics in the **United States**, such as the Callen Lorde Community Center¹⁹¹ in New York, Fenway Health in Boston¹⁹², Howard Brown Health Center in Chicago¹⁹³ and the Center of Excellence for Transgender Health at the University of California in San Francisco¹⁹⁴, have developed *Informed Consent Protocols* to provide hormone therapy to trans people. Such clinics have specific trans health policies that govern the full range of their trans-specific healthcare. Most have a holistic approach to health, and also work with, for example, HIV prevention and fertility treatments. There are also online guidelines, from for example the *Center of Excellence for Transgender Health*.¹⁹⁵

The *Informed Consent Protocols* revolve around trans people’s right to self-determination and provide hormone treatment in an easy and accessible way. The advantage of these models is that patients are not required to accept a gender identity disorder diagnosis and therefore have no reason to provide a false narrative about their identity. This fact also results in better alliances between patients and healthcare providers, as it allows for timely treatment of the chief complaint and related symptoms/distress. Thus, hormone-naïve patients can begin hormone care within a month following the initial presentation while hormone-experienced patients do not have to have their treatment interrupted.



Whilst the models employed differ slightly, the clinics still rely on the following pillars: (i) an initial medical assessment, (ii) transgender counselling and education, (iii) a follow-up medical visit, (iv) ongoing engagement of the patient in primary health care, and (v) other available services as necessary.

In 2014, Callen Lorde revised their *Protocols for the Provision of Cross-Gender Hormone Therapy*. In the document, there is detailed information, also on needs of people who have special conditions, such as liver disease or HIV infection. There is also a “General Philosophy and Vision”, making the position of the clinic clear: “Callen-Lorde Community Health Center provides trans-affirmative health care by emphasising partnership, education, and self-determination. We view treatment as a cooperative effort between patient and provider. We strive to establish relationships with patients in which they are the primary decision makers about their care, and we serve as their partners in promoting health. This partnership supports the patient’s ongoing understanding of the risks and benefits of hormone therapy. By providing thorough education around hormones and general health, we also aim to enhance a patient’s ability to make informed decisions about all aspects of their health. We believe patients who are well informed have a right to make their own decisions.

Callen-Lorde acknowledges that individuals of transgender experience have traditionally met discrimination in healthcare settings. We seek to provide trans-affirmative health care and strive to engage patients who would otherwise be alienated from the medical system or

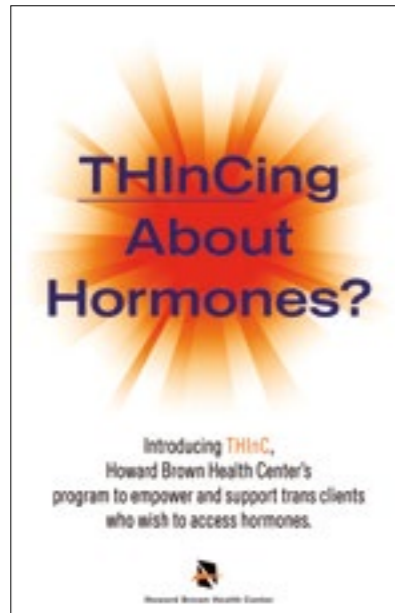


Figure 36
Brochure of one informed consent model on access to hormones.

not get medical care at all. The mission of Transgender Health Services at Callen-Lorde is to provide comprehensive quality services to our patients of diverse gender identity and expression.

Callen-Lorde realises that health care institutions discriminate against people of transgender experience by not conducting adequate scientific research on transgender health. We developed our protocols by compiling the collective knowledge of clinicians, patients, members of the transgender community, and related scientific studies. They are offered as guidelines for primary care for patients of transgender experience receiving hormone therapy. These guidelines should be seen as a starting point from which the patient and provider can arrive at a care plan appropriate to the patient’s needs.”

5.5.2 CliniQ, London, United Kingdom

CliniQ describes themselves as a “Community Interest Company”, providing a “holistic sexual health and well-being service for all trans people, partners and friends”. The team is trans-led and aims to offer a “safe, confidential space for those who may not feel comfortable accessing mainstream services.”¹⁹⁶ Services at CliniQ include free and confidential HIV testing, liver function tests, cervical smear testing, PEP (Post-Exposure Prophylaxis), Hormone Injections (for those with ID and prescription), gender identity counselling, hate crime support and more.



Figure 37
Screenshot from the video “CliniQ – Free health care for trans people.” Fox Fisher/My Generation (2016)

5.6 Patient-focused participatory Research

5.6.1 Trans-Pulse (Trans-Health Research)

The *Trans PULSE Project* is a community-based research project investigating the impact of social exclusion and discrimination on the health of trans people in Ontario, **Canada**.¹⁹⁷ The project also aims to contribute to change by providing information necessary to change policies and practices to improve the health of trans communities.

The project has worked with surveys and advocacy summits, and also publishes a resource list.¹⁹⁸ The data collected is available online and has been used by, for example, researchers and social workers.

Trans people deserve the highest possible level of quality healthcare. Therefore, healthcare providers should devise their treatments around the specific needs of each individual trans person, providing a holistic approach whereby equal attention is provided to the transition process and to long term healthcare.

5.7 Access to trans-related healthcare for specific groups

5.7.1 Right to access trans specific healthcare in prison

Access to gender reassignment treatments for people who are detained or in custody is a problem in many parts of Europe.¹⁹⁹

In November 2016, the *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)*, of the Council of Europe, commented for the first time on the situation of a transgender prisoner. In the CPT-report to the **Austrian** Government on the visit to Austria in 2014²⁰⁰ the Committee stated: “In the CPT’s view, persons deprived of their liberty should not be excluded from benefiting from [gender reassignment] treatments and legal procedures provided for by law for transgender persons in Austria.” The Committee recommended Austrian authorities to “take the necessary steps to ensure that transgender persons in prisons (and, where appropriate, in other closed institutions) have access to assessment and treatment of their gender identity issue and, if they so wish, to the existing legal procedures of gender reassignment. Further, policies to combat discrimination and exclusion faced by transgender persons in closed institutions should be drawn up and implemented.”

Before the publication of the CPT report, a trans woman in Austria had won the right to gender reassignment treatment while in prison, on 29 April 2016.²⁰¹ The woman had been denied access to treatment by the prison director and turned to the court. The Regional Criminal Court of Vienna ordered the penitentiary to initiate the treatment.

5.7.2 Civil society working to improve access for children

Spanish organisation *Fundación Daniela* provides schools of trans children with a letter from a social worker so that the child can potentially change their name on their “health care card”. In some cases this has worked. There is no legal protection available for minors in Spain, and no right to access to any medical treatments. The letters have become effective in addressing lack of knowledge or insecurity, and do not expose the child to a diagnostic process and clinical setting.

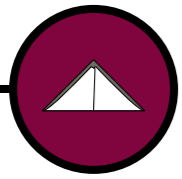
Fundación Daniela also created a network of trans-friendly professionals outside the Gender Units so that underage trans people could have access to hormone treatments or blockers, and make use of general healthcare such as paediatric services that are also trans-friendly. More information is available online.²⁰²

5.7.3 The TRANSIT manual for trans health and HIV prevention

In April 2016, the United Nations Development Programme, UNDP, together with IRGT: A Global Network of Trans Women and HIV, academic and US state institutions, published a toolkit on implementing HIV and sexually transmitted infection (STI) programmes with transgender people: *TRANSIT, Implementing Comprehensive HIV and STI Programmes with Transgender People: Practical Guidance for Collaborative Interventions*.²⁰³ The toolkit explains how community empowerment and human rights, addressing violence, stigma and discrimination, and delivering trans-competent services are key for effective strategies on HIV and STI prevention, and also have an important role in diagnosis, treatment and care. The toolkit offers strategies for managing programmes and building the capacity of trans-led organisations. Good practice from around the world can be used to support efforts to plan programmes and services with trans people. The tool is designed for use by public-health officials, managers of HIV and STI programmes, NGOs and health workers. It may also be of interest to international funding agencies, health policy-makers and advocates. Also available, from WHO, is a similar tool focused on HIV/STI programmes for sex workers.²⁰⁴



Figure 38
IRGT:
A Global Network
of Trans Women



CHAPTER 6

EMPOWERMENT FOR TRANS SELF-ORGANISING & REPRESENTATION

RECOMMENDATION 8:

Involve and consult transgender persons and their organisations when developing and implementing policy and legal measures which concern them.

“Nothing about us without us” has been one of the recurrent rallying calls of marginalised groups, including trans communities. In spite of this, until a few years ago trans communities have hardly been consulted about matters that affect their daily lives beyond a handful of cases. On a positive note, an increasingly visible trans movement with strong collaboration with LGBTI organisations is quickly filling in the gap. The emergence of the trans movement at a regional and international level has meant that work is increasingly coordinated and the argumentation well researched and articulated.

However, lack of funding remains an issue. In 2013, *Global Actions for Trans* Equality* (GATE) and *American Jewish World Service* (AJWS), surveyed 340 trans and intersex groups worldwide to document discrimination and multiple challenges. They also documented the chronic underfunding of trans and intersex led initiatives worldwide.²⁰⁵ The majority of organisations have scarce resources, and donors consider this field of work too small to justify funding. These findings also ring true for Europe and call for more resources to ensure the sustainability of community led initiatives.

6.1 The Council of Europe’s consultative approach with regard to legislative proposals

6.1.1 Consultation in preparation of the Committee of Ministers’ Recommendation and the Resolution from the Parliamentary Assembly of the Council of Europe



Figure 39
Side event:
“Trans Rights
in Europe.”

The CoE Committee of Ministers’ Recommendation was developed by the Committee of Experts on Discrimination on Grounds of Sexual Orientation and Gender Identity (DH-LGBT).²⁰⁶ ILGA-Europe and Transgender Europe were included as observers to the drafting process.

This was the first time that a regional non-governmental network focusing on the rights of trans people was officially part of such a high-level process. The adopted Recommendation mainstreamed trans issues and trans sensitive language throughout, following input provided by Transgender Europe and ILGA-Europe.

A similar process happened during the two years of preparing Resolution 2048(2015)

Discrimination against Transgender People in Europe. Transgender Europe was invited by the PACE secretariat to provide input, advice and contacts to the Committee to inform about the needs of trans people in Europe, leading to a strong report and resolution. TGEU brought the exhibition “Trans at work” to the Council of Europe and organised a side event with a delegation of trans rights activists before the adoption of the resolution.

6.1.2 ILGA-Europe’s Observer Status at the CAHVIO Expert Committee

Similarly, when the Council of Europe set up the *Ad Hoc Committee on preventing and combating violence against women and domestic violence* (CAHVIO) for the drafting of a convention tackling gender-based violence, ILGA-Europe received Observer Status at the Committee. It then prepared a submission on violence against LBT women,²⁰⁷ explaining that such violence is essentially gender-based and that it should be covered by the Convention. Through its Observer Status, ILGA-Europe was able to brief Member States representatives on the need to have sexual orientation and gender identity covered in the scope of the anti-discrimination article.

6.1.3 Human Rights Experts involvement in the development of new healthcare provisions

Malta GIGESC Act Article 16 (Treatment protocol)²⁰⁸ establishes a working group to develop a new trans-specific treatment protocol. Three experts in human rights issues, three psychosocial professionals and three medical experts and a chairperson shall form the working group. The working group shall review the current medical treatment protocols in line with current medical best practices and human rights standards and shall, within one year from the date of their appointment, issue a report with recommendations for revision of the current medical treatment protocols.”

Although the text does not say explicitly that civil society needs to be involved, the explicit wording in the fourth paragraph (human rights experts) makes the involvement of civil society very likely.

Public administrations should always include trans communities in consultations in the drafting process towards the adoption of new legislation and policies that directly or indirectly impinge on trans people’s quality of life and wellbeing.

6.2 Policy consultation at regional and national level

6.2.1 Consultation process leading up to UK Trans Inquiry Report (2016)

The *Women and Equalities Committee* of the **United Kingdom** Parliament, published a report with the title *Transgender Equality* with over 30 recommendations in a wide range of policy areas. The committee called on the Government to take action to ensure full equality for trans people, emphasising the need to update existing legislation; provide better services, especially in the NHS; and improve confidence in the criminal justice system. In drafting the report, the committee engaged in extensive contact with experts from different areas, and heard testimonies from trans community groups. The written evidence reports are all published on the committee website.²⁰⁹

6.2.2 Ad-hoc and continuous national and international consultation structures

In April 2013, the **Maltese** government established the *LGBT Consultative Council*.²¹⁰ The purpose of the council is to advise government and prepare legislation on LGBT rights, social dialogue and civil liberties. The council is composed of civil society representatives from LGBT



organisations, which the government said had the “experience, expertise and access to research on the issue.” The council first worked on preparing the draft law on the introduction of civil partnerships for same sex couples, and then on the GIGESC Act. The organisations represented on the consultative council are the *Malta Gay Rights Movement*, *Drachma*, student organisation *We Are*, *ADITUS Foundation* and *LGBT Labour*.

When working on the GIGESC Act, the Maltese government invited both national and international civil society organisations to be part of the process. Among others, *GATE*, *ILGA-Europe*, *OII Europe* and *TGEU* contributed with written input. Individuals also had the option of providing input, as did institutions such as the Council of Europe. The public consultation period took place in November 2014, and all information was, and still is, available online.²¹¹



Figure 40
Participants at “Beyond the Binary: Equality for Trans, Genderqueer and Intersex People” ahead of a final vote on the Malta GIGESC act. (2015).
Photo: Malta DOI/
Pierre Sammut

6.2.3 Increasing the Capacity of the Trans Movement Worldwide

The report *The State of Trans* and Intersex Organizing* found that trans- and intersex led initiatives are underfunded, with 50 % operating on an annual budget of less than 10,000 US dollars. Almost two-thirds said they had no resources. As a response, donors and trans and intersex activists met in 2014 to start a dialogue on how to improve financial support for both communities. The event itself became a best practice through involving activists throughout the organising. The Conference Report *Advancing Trans* Movements Worldwide*²¹² is an inspirational source on how to engage activists from early on and thus enhance leadership development, help new networks and increase diversity.

One of the results was that the activist and funder-led *International Trans Fund* (ITF)²¹³ was founded in 2016. It is the first global grant maker to focus entirely on increasing the capacity of the trans movement. The ITF gives out grants to small scale and grassroots trans-led initiatives, and aims to generate more resources for the community, also by educating other donors. The creation of the International Trans Fund is being led by an Interim Steering Committee consisting of trans activists and funders from regions around the world, and the ITF Grant Making Committee consists of trans activists who review grants submitted.



Figure 41
Members of the Interim Steering Committee of the International Trans Fund (2016)

6.2.4 Civil society in the working group for Norwegian gender recognition law

In **Norway**, the legal gender recognition act was introduced in the summer of 2016, after a working process inclusive of civil society. LGBT and trans organisations were part of the expert group working on the law. Lawyers and medical doctors were also in the group, which had a joint mandate to review legislation and administrative practice regarding legal gender recognition and assess whether these were in line with Norway’s human rights obligations or not. The participation of trans civil society in the working group ensured that impractical solutions and unrealistic fears, for example regarding fraud, could be addressed early on in the process, leading to a solid progressive result. The expert group was established in December 2013, and the new law went into force on 1 July 2016.²¹⁴



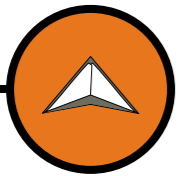
Figure 42
Norwegian LGBTI activists at the Norwegian Parliament (Stortinget) following the proceedings of the Norwegian gender recognition law. (2016)
Photo:
Helle Aasand/
Blikk magazine/
Norway

6.2.5 Scottish Government's work in partnership with trans organisations

Policy makers in **Scotland** realised that the needs of trans citizens were not adequately addressed by the existing public structures and that they did not have sufficient expertise to redress this problem. Thus, they understood that in order to improve trans people's living experiences, trans communities needed to be considered as key stakeholders in any policy making process that was likely to affect their lives. Through a pilot project, the *Scottish Transgender Alliance* (STA) was provided with public funding for one year, to provide training sessions on trans issues to the Scottish Parliament, government and public authorities; and to develop trans related policies and function as a partner for other equality NGOs. The success of the approach led to an extension of funding in order to coordinate input towards policy making from the different trans communities of Scotland.

The continuous willingness of the Scottish Government to engage with the trans community lead to various discussions on policy and legislation. Following input provided by STA regarding Scottish trans people's experience of bias-crime and violence, the Scottish Parliament progressed the hate crime legislation expressly covering gender identity.

The above examples highlight that the best consultation processes are those that run the full cycle of (i) identifying trans exclusion as a problem that requires redress; (ii) consulting trans communities; (iii) developing an adequate action plan with clear targets; (iv) implementing the action plan; (v) monitoring and reviewing where need be, in consultation with and together with trans communities.



CHAPTER 7

AWARENESS RAISING & CAMPAIGNING

RECOMMENDATION 9:

Address the human rights of transgender persons and discrimination based on gender identity through human rights education and training programmes, as well as awareness-raising campaigns.

There is lack of awareness on trans issues among wide sectors of society including decision makers, educators, lawyers and medical practitioners. In addition, trans people themselves are not always aware of their rights and the redress mechanisms at their disposal. Thus it is important that awareness is raised among as many people as possible, while training is provided to professionals and to the trans community itself.

The *European Union Agency for Fundamental Rights (FRA)* found that positive public action by public figures, religious leaders or national authorities has an actual positive impact on the lives of trans and LGBT people.²¹⁵

7.1 Awareness raising among Euro-parliamentarians

7.1.1 Transgender – Rights at work

On 9 December 2014, the Intergroup on LGBTI rights hosted a discussion between MEPs, NGOs and EU Institutions on transgender rights.²¹⁶ The discussion was based on the results of the FRA survey that confirmed the widespread discrimination against transgender people in the EU. The discussion also included problems relating to the labour market, where many trans people have experienced high unemployment rates and harassment in the workplace.

At the meeting, TGEU's report on access to employment for transgender people²¹⁷ was launched and discussed with representatives from the European Commission and the EU's Agency on Fundamental Rights, and members of the European Parliament.



Figure 43
Dr Lydia Foy received a European Citizen's Prize in 2015

7.1.2 European Citizenship

Award for Dr. Lydia Foy

In June 2015, **Irish** trans activist Dr Lydia Foy was among the 47 winners of the European Citizen's Prize of the European Parliament.²¹⁸

Dr Lydia Foy is an Irish transgender woman known for leading legal challenges regarding gender recognition in Ireland. The EU Parliamentarians honoured her 20-year legal battle to have her birth certificate reflect her gender identity.

Politicians and members of parliament should be informed about the social and legal situation of trans people so that they are able to distinguish between facts and misconceptions when debating new laws, budgets or policies that have direct or indirect impact on trans people.

7.2 Awareness raising on the national and regional level

7.2.1 International awareness raising among national policy makers

In April 2013, **Norway** and **South Africa** co-hosted the International Conference on Human Rights, Sexual Orientation and Gender Identity, in Oslo, Norway.²¹⁹ The event was part of fostering support for a UN Resolution on sexual orientation and gender identity, but was also a welcome possibility for awareness raising and exchange about the situation in Europe. More than 200 representatives from civil society, states and the UN, from 84 countries, took part. The international conference followed a series of regional seminars.

7.2.2 Awareness raising among policy makers

In **Ireland**, national trans rights organisation TENI played a big part in the process leading up to the adaptation of the *Gender Recognition Act* in the summer of 2015. Among methods used by TENI was direct collaboration with politicians during their work on the bill. Before the bill was debated in the parliament, TENI, LGBT Noise and the SU organised a workshop, with the *Gender Recognition Bill* in focus, entitled "How to lobby your TD,"²²⁰ training community members "on how to effectively lobby TDs (members of parliament) in order to effect real change".

7.2.3 SPoD's campaign for LGBTI-friendly municipalities

In 2014 the *Social Policies, Gender Identity and Sexual Orientation Studies Association (SPoD)* in Turkey submitted an "LGBTI-Friendly Municipality Protocol" to mayoral candidates in the local elections, to remind local administrations of their responsibility to fulfil LGBTI rights.²²¹ The protocol contained promises to actualise policies that would equally benefit LGBTI people, for example with regard to healthcare, housing, employment; and also promises to cooperate with LGBTI associations and provide training on LGBTI rights. A list of which candidates signed the protocol was published on the organisation's website and the campaign had clear results, such as friendly municipalities providing free health services to LGBTI people.

7.3 Awareness raising among the general public

7.3.1 Amnesty International (Germany) campaigning for Chelsea Manning

In 2014, the **German** section of *Amnesty International* included whistle blower Chelsea Manning in their country-wide awareness raising and billboard campaign. In connection with the 27th birthday of Chelsea Manning, AI wrote an information piece about her current situation after having been sentenced to 35 years in prison, including facts about her trans identity and her recent official change of name.²²²

7.3.2 "Patriots, Citizens, Lovers..."

In 2015, artist Carlos Motta created the exhibition *Patriots, Citizens, Lovers...* in conversation with **Ukrainian** journalist Maxim Ivanukha. The art piece is composed of ten urgent interviews with Ukrainian LGBTIQ activists who discuss the situation of lesbian, gay, trans and intersex lives in Ukraine in times of war.²²³ The exhibition was a way of creating more visibility for the LGBTIQ community, which is often made invisible in the Ukrainian crisis situation.





Figure 44
Exhibition
“Patriots,
Citizens,
Lovers...”
in Kiev, Ukraine
(2015).

7.3.3 UK Mermaids winning Charity of the Year 2016

Publicity awards for trans activism can raise awareness and support the group’s work. **UK** charity *Mermaids* won in the category Charity of the year at the European Diversity Awards 2016.²²⁴ *Mermaids* has existed since 1995, and works to support transgender children and young people up to 19 years old, as well as their families and professionals involved in their care. Some of the goals of *Mermaids* are to empower families and young people and improve awareness, understanding and practices of GPs, and Social Services.²²⁵

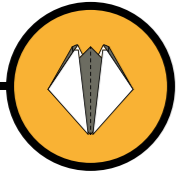
7.3.4 Videos for awareness raising

Videos are a good method to raise awareness online. In 2015 *Trans Ísland*²²⁶ a trans organisation from **Iceland** gathered questions that are often asked to trans people and six trans activists answered them on video. The video, *Algengar spurningar (common questions)*, in Icelandic with English subtitles, went viral in Iceland as the activists answered the questions with humour and in a positive manner, and showed a rather diverse trans movement.



Figure 45
The #TRANS_LT
campaign video
behind the scenes.
Photo: LGL/
Arcana Femina
(2015)

In **Lithuania** the National LGBT* Rights Organisation (LGL) produced a campaign video²²⁷ #Trans_LT in which trans people from Lithuania share their experiences about how absent legal gender recognition and gender reassignment procedures in the country affect their daily lives. This was the first awareness campaign on trans issues organised in Lithuania, and having trans people tell their own stories was effective. The campaign asked people to also sign a petition asking for quick, accessible, and transparent legal gender recognition which was signed by almost 2,000 people in 2015.



CHAPTER 8

TRAINING FOR PROFESSIONALS

RECOMMENDATION 10:

Provide training to health service professionals, including psychologists, psychiatrists and general practitioners, with regard to the needs and rights of transgender persons and the requirement to respect their dignity.

Access to adequate healthcare services is paramount for trans people. This means access to well-trained professionals in the pertinent specialisations who are competent to work with gender variant clients. For such a standard to be met, professionals in the field need to be trained both in terms of trans specific healthcare needs; and in gender diversity and the diversity within the trans community itself.

Personnel working in media, police, law enforcement and educational settings are key to ensuring that trans people feel welcome, respected and professionally treated. While they might need to be able to respond to a broad range of audiences and themes, training in gender identity issues is essential for delivering professional services.

8.1 Setting the right framework for provision of training on trans health

8.1.1 General Medical Council's provision of training to medical practitioners

Great Britain's Equality Act 2010 extends an equality duty on healthcare service providers to actively pursue equality for both their trans employees and their clients, while the *Transgender Action Plan* supports the equality duty through staff training and other healthcare specific actions. Primary care providers are increasingly in the spotlight as they are often the first point of contact. They have also a key role to play in administering basic care provision, and provide so called "bridging" prescriptions to bridge long waiting to access specialised services. The General Medical Council developed guidance on care pathways, available treatments, prescription and confidentiality issues for health practitioners, targeting general practitioners, primary care trusts, and the trans community.²²⁸

There are two online educational modules on gender variance²²⁹ on the website of the UK Royal College of General Practitioners (RCGP) which aim to provide GPs with basic background information about how to offer treatment to trans adults and young people. The modules may be accessed by anyone (i.e. not just RCGP members). The module carries professional qualification points.

Public authorities and training providers are encouraged to assess whether or not existing professional education and training enables health professionals to meet the health needs of trans people. They are also encouraged to enter into dialogue with trans civil society organisations to ensure that they update and improve the contents of training curricula in the most appropriate manner.

8.1.2 A trans youth suicide prevention toolkit for nurses

Several studies suggest that trans people are at higher risk of showing suicidal tendencies, which is even more pronounced among young trans people. Nurses are often the first point of contact in the medical system and can play a crucial role in ensuring a welcoming and respectful health system. As part of the national suicide prevention strategy the Royal College of Nursing Congress developed a trans youth specific toolkit. It aims at improving the frontline staff's ability to recognise, assess and manage suicide risk in trans youth. The toolkit is designed primarily for nurses who work with children and young people, whether in community or hospital settings, including school nurses, practice nurses and accident and emergency nurses. The toolkit discusses specific factors in trans youth suicidality, and gives practical guidance on how to work with young trans people, effective interviewing and communication techniques, and confidentiality and consent.

8.1.3 Professional peer-exchange and training

Ongoing professional exchange is very important for all medical practitioners to stay up to date with evolving techniques and standards of healthcare provision. Peer exchange with other professionals is key. If no local experts are available, regional networks and online discussion groups can help maintain such an exchange.

The *European Professional Association for Transgender Healthcare* (EPATH) was founded in 2014 with the aim of bringing together healthcare professionals and scholars to exchange knowledge, research and examples of good practice in different disciplines and experiences from the wider Europe.²³⁰ In 2015, the first EPATH conference in Ghent, Belgium, saw hundreds of trans health professionals, scholars, activists and trans people in attendance. Topics covered ranged across mental health, children & adolescents, endocrinology, social sciences, voice and communication, surgery and law. EPATH plans to hold a conference every second year. As a pre-conference to the Annual Conference of WPATH in 2016, EPATH organised the WPATH/ EPATH *Global Education Initiative*, a training event for medical practitioners and an interested public.

The *TransMedicine* online discussion group²³¹ is a restricted forum for health professionals primarily consisting of physicians. Members of the group discuss aspects of transgender medicine, focusing on hormone therapy, transgender primary care, research, and access to care. This discussion group welcomes all interested healthcare professionals to apply for membership and join the discussion.

General and specialised healthcare professionals should seek to regularly engage with colleagues. Becoming a member of EPATH or domestic multi-disciplinary professional groups can help to stay up to date with one's practice and ensure the best possible standards of healthcare delivery.

8.1.4 Center of Excellence for Transgender Health

The *Center of Excellence for Transgender Health* is based in San Francisco and associated with the University of California, and is global leader in training provision on trans-related healthcare. The Center consciously incorporates trans participation to ensure that all steps and measures are taken in partnership with the community.

All programmes are developed in response to community-identified needs, and a national advisory body made of fourteen trans-identified community leaders from across the United States is actively engaged. For health practitioners, the Center offers an online learning centre²³² that contains a great range of resources (professional literature, guidelines and examples of best



practice, materials from conferences, lectures and online training) on topics such as primary and routine care, HIV prevention, cultural competency, mental health and policy formation.



Figure 46
The National Advisory Board of the Center of Excellence for Transgender Health.
Photo: Center of Excellence for Transgender Health (2015)

Training and policy institutions stand to benefit from a structured engagement with the trans community, whether it is through formal advisory groups or otherwise. Such institutions should always ensure that they seek interlocutors that adequately reflect the diversity within the trans community itself.

8.2 Training for judiciary and law enforcement



Figure 47
Webpage of the HELP course

8.2.1. Council of Europe Course for Legal Practitioners

The “HELP in the 28” course *Fight against Racism, Xenophobia, Homophobia and Transphobia*²³³ is an eLearning course which covers the discrimination, violence and exclusion faced by LGBTI persons and other vulnerable groups in Europe. The course is aimed at judges, prosecutors and lawyers and covers, in an interactive way, European non-discrimination law (from the Council of Europe and EU) and the body of case law of the European Court of Human Rights and of the Court of Justice of the European Union, in addition to decisions of the European Committee of Social Rights. The course has four modules: (1) Key concepts, (2) Legal framework, (3) Racism and xenophobia, and (4) Homophobia and transphobia.



8.3 Training and provision of resources for media professionals

Trans Media Watch (TMW) is a media watchdog based in the **United Kingdom** that focuses its attention on the quality of representation of trans people in the media. TMW’s pioneering research²³⁴ showed that stereotypical representation of trans people directly impacts trans people in their daily lives in the form of harassment and stigmatisation. They therefore offer training sessions and web-based tools on accurate representation of trans people to media professionals. They also guide media professionals through frequently encountered problems such as inadequate approaches and common misunderstandings about the experiences of trans identified people, while assisting them with practical suggestions and advice.

The *Memorandum of Understanding*²³⁵ prepared by TMW with several major media organisations who share the basic principle that trans people are to be treated with accuracy, dignity and respect is most remarkable. The document focuses on: (i) eliminating transphobia in the media; (ii) ending misinformation about trans issues in the media; (iii) increasing positive, well-informed representations of trans people in the media; and (iv) ensuring that trans people working in or with the media are treated with the same respect as cisgender (non-trans) people. The memorandum of understanding has been well received as a very useful resource and has already been endorsed by Channel 4 and Women in Journalism.

8.4 Training and materials by trans civil society

Trans issues tend to be inadequately addressed in current educational curricula for health professionals. In this gap, trans civil society organisations in many countries have developed their own expertise on the subject and provide voluntary training to medical professionals.

8.4.1 Trans sensitisation training for medical professionals in Kyrgyzstan

Since 2006, **Kyrgyz** NGO *Labrys* has raised awareness about specific healthcare concerns of LGBT people and provided training sessions to sensitise medical professionals working with the LGBT community. In



Figure 48
Notes about how it was (2010)

2010, they published their experiences in working with the with the medical world in “Notes about how it was...: The priceless experience of Labrys to achieve tolerance towards LGBT people amongst the medical professionals in Kyrgyzstan” This is a practical hands-on guide for others, activists and health care providers alike, to learn from Labrys’ training sessions with doctors and nurses. In 2008, one such training session was provided over a whole week to fourteen doctors and nurses. It covered the healthcare needs of LGBT people, while providing a two-day session focusing on trans-specific health needs. The training dealt with stereotypes affecting the LGBT community, and appropriate terms and definitions. For the purpose of this training session, Labrys invited international trans trainers to provide an introductory overview on transgender issues and to show that trans people exist everywhere. The “Notes” include also a glossary from the LGBT guide “Doctor, this is for You!”

8.4.2 Trans sensitisation training for endocrinologists in St. Petersburg, Russia

Facing a lack of trans-friendly and trained endocrinologists in **St. Petersburg**, activist group T-action trained trans volunteers to reach out and train doctors directly. Based on generally accessible information about polyclinics, they invited endocrinologists and heads of polyclinics to attend trans-sensitisation training. T-action trained trans volunteers to interact with doctors. Prepared like this, volunteers would present in regular appointments and invite the endocrinologists to attend the training. T-action also built up a network of already trained and trans-friendly endocrinologists, who treat trans-people and who can reach out to other professional colleagues.

8.4.3 Brochures for medical professionals in Slovakia

Given the lack of materials on trans-related health, many trans civil society organisations have developed and circulated their own educational materials for healthcare professionals. These publications are often inspired by recurrent problems experienced by trans patients, and address specific ethical questions and provide templates for codes of conduct.



Figure 49
“Trans-inclusive standards in the Healthcare system” (2015)

Slovakian NGO *Transfuzia* developed a brochure for health professionals, *Standards for Trans-Inclusion in the health care system*. Reflecting on the diversity in needs in the trans community it contains (i) a glossary of the most commonly used terms, (ii) a wider range of healthcare information related to transition and sexology, (iv) advice on how to deal with commonly identified problematic situations in interactions with doctors.

Health professionals, especially those who deal with trans patients infrequently, are encouraged to familiarise themselves with trans health brochures and other publications, as these can help them to refresh their knowledge and guide them to other adequate sources.

8.5.1 IGLYO Toolkit on Intersectionality

A good starting point to explore an intersectional approach is the *Toolkit on Intersectionality*²³⁶ developed by the *International LGBTQI Youth and Student Organisation*, (IGLYO). It contains practical tips to keep in mind to when aiming at making an organisation (more) intersectional, and tools, action plans and a glossary of terms to help it move forward.

8.5.2 ‘Inclusivity’ –

Supporting Black, Asian & Minority Ethnic (BAME) Trans People

Trans people of different ethnic backgrounds have always been here, even if invisible in mainstream media representation. While more Black, Asian & Minority Ethnic (BAME) Trans People are now accessing services in **Britain**, services have not always been able to cater for this part of the trans community. As a response, *Gender Identity Research & Education Society* (GIRE) commissioned Sabah Choudrey, an LGBTQ BAME Consultant and Activist, to draft ‘*Inclusivity*’ – *Supporting BAME Trans People*.²³⁷

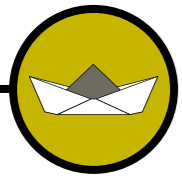


Figure 50
Inclusivity – Supporting BAME Trans People, GIRE.

The 28-page brochure aims at doing justice for BAME trans people by including them in the dialogue, as they are a part of the trans community. ‘*Inclusivity*’ aims to help service providers and activists find answers to questions such as: (i) *Why are there no or few BAME trans people in my group?*, (ii) *Why are there no or few BAME volunteers or workers in my organisation?*, (iii) *How can I support a BAME trans person who attends my group?* Through its practicality it is also useful for an audience outside the national context of the United Kingdom.

8.5 Serving a diverse community

The trans community is not a homogenous group. Trans people are diverse in their gender identity and expression thereof, their age, class, social background, upbringing, sexual orientation, ethnic and migrant backgrounds. Service providers, whether in an NGO or in a mainstream setting, need to cater to the individual and ensure that different identities and intersecting personal characteristics are acknowledged and respected.



CHAPTER 9

COLLECTING DATA ON THE SITUATION OF TRANS PEOPLE

RECOMMENDATION 12:

Develop research projects to collect and analyse data on the human rights situation of transgender persons including the discrimination and intolerance they encounter, with due regard to the right to privacy of the persons concerned.

While the volume of research on the situation of trans people at the European level is growing, the scarcity of information in most national and local contexts remains a major obstacle for the tackling of discrimination and human rights breaches against trans people.

In its Recommendation (see 1.3.4), the CoE Committee of Ministers asks Member States to:

“examine existing legislative and other measures, keep them under review, and collect and analyse relevant data, in order to monitor and redress any direct or indirect discrimination on grounds of sexual orientation or gender identity.”²³⁸

A first review of the implementation of the Recommendation was carried out in 2013,²³⁹ based on questionnaires filled in by 39 Member States. A second review is planned for 2018.

In 2014 the European Parliament,²⁴⁰ recognising the importance of comparable, quality data collection on the situation of LGBTI people in the EU, stated:

“The Commission and Member States should be encouraged to regularly collect relevant and comparable data on the situation of LGBTI persons in the EU together with relevant agencies and Eurostat, while fully respecting EU data protection rules [...] The Fundamental Rights Agency should assist Member States in improving their collection of comparable data about homophobic and transphobic hate crime”

9.1 Data collection at the European level

Regional collection of information has been particularly important in highlighting emerging trends and existing gaps in legislation. European LGBT reports have also been extensively referred to by the United Nations in its first global LGBT report, and other key human rights reports.

9.1.1 The European Commission Against Racism and Intolerance - ECRI

The European Commission Against Racism and Intolerance (ECRI) is the only continuous watchdog in the Council of Europe. It is a forum of independent human-rights experts who monitor racism, xenophobia and intolerance in all Member States. Recently, ECRI has been including homo- and transphobic violence in its country reports, documenting cases, and its recommendations call upon state authorities to introduce specific legislation and take pronounced measures against this violence. In the 5th reporting cycle ECRI addressed trans-related issues in regard to anti-discrimination legislation, hate speech & hate crime and LGBT people’s access to health, education and employment. ECRI is sensitive to the fact that situations in different countries may require different responses. Issues and recommendations are thus not

made in a one-size-fits-all manner, but are country-specific and often take into account the perspectives of NGOs.

Civil society and public authorities are encouraged to provide ECRI experts and the ECRI secretariat with information on the situation of trans people, particularly in preparation for one of the regular ECRI country visits.

9.1.2 Data collection by the CoE Commissioner for Human Rights

Building on the data collection model put in place by FRA, the Commissioner for Human Rights conducted a study that took into account the legal and social situation of LGBT people in all forty seven Member States of the Council of Europe.²⁴¹ It should be stressed that this report mainstreams trans issues throughout, as trans organisations’ input was taken into account during the conceptualisation, data collection and writing stages.

The study remains the first comprehensive data collection and analysis of the legal and social situation of LGBT people in all Member States of the Council of Europe. The reporting format is similar to the FRA reports and makes available both the background analysis²⁴² and the background country reports from the CoE-47. Based on the study’s findings, the Commissioner provided thirty six concrete measures that Member States could implement to effectively address discrimination on grounds of sexual orientation and gender identity.

9.1.3 Data collection by the EU Fundamental Rights Agency

Until the mid-2000s, there were no comprehensive European reports on the situation of LGBT people. The European Parliament commissioned the EU Fundamental Rights Agency (FRA) to “develop a comprehensive comparative report covering all EU Member States on the situation regarding homophobia and sexual orientation discrimination.”²⁴³ In response to the request of the Parliament, FRA carried out two large scale legal and social research projects during 2007 and 2008. The Agency noted the need for research on the situation of trans people and widened the original scope of the European Parliament’s call to also include the ground of gender identity.

Noteworthy elements of the reports specifically dealing with the situation of trans people include:

- *Part 1 – Legal Situation* explored the legal situation under the legislation of the EU and its Member States regarding anti-discrimination provisions; gender reassignment and legal recognition; availability of gender reassignment surgeries; and the legal consequences of gender reassignment (i.e. recognition of the acquired gender and right to change one’s forename in accordance with the acquired gender),²⁴⁴ while
- *Part 2 – Social Situation* explored the lived experiences of trans persons in EU Member States.²⁴⁵

Based on the findings, FRA published various fact sheets, including one specifically addressing trans people’s rights.²⁴⁶ Moreover, FRA continued to monitor the situation and published *Updates to the legal situation*,²⁴⁷ and includes a gender identity perspective in a broad range of publications,²⁴⁸ including its *Annual Fundamental Rights Reports*. Updated country thematic reports from the EU-28 are also available on FRA’s website.

In 2010, the European Commission tasked the FRA with conducting a large scale quantitative study on discrimination, harassment and violence against LGBT people within the EU and Croatia, the *LGBT survey 2012*. This survey exploring LGBT people’s experiences of violence



and discrimination was conducted during 2012, and provided the largest data set on the situation of LGBT people to date. Out of the 93,000 total responses received, 6,579 self-identified as falling under the trans umbrella. While the survey asked all participants about their daily life, discrimination experiences, violence and harassment and rights awareness, it also had a section with trans-specific questions related to legal gender recognition, trans-specific healthcare. Besides a report focusing on the main results of the survey,²⁴⁹ the agency zoomed in on the experiences of trans people in its first trans-dedicated report *Being Trans in the EU - Comparative analysis of the EU LGBT survey data*. Thanks to the large sample size the report provides detailed analysis for different trans identity groups, such as cross dressers, transgender or gender variant people. The survey data itself is accessible online.²⁵⁰ The EU agency has announced that it will repeat the LGBT survey in the years to come.

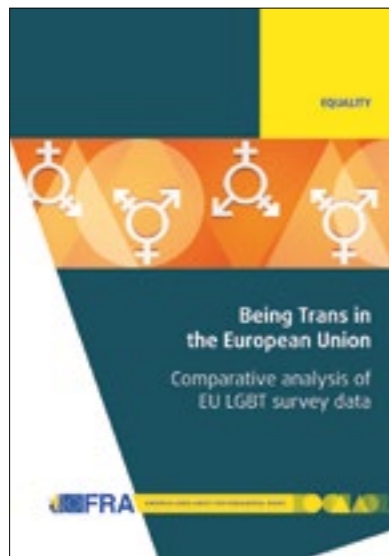


Figure 51
Being Trans
in the
European Union,
Comparative
analysis of
EU LGBT
survey data.
FRA (2015).

In 2016, the FRA complemented its previous research in this field with the report *Professionally Speaking challenges to achieving equality for LGBT people*.²⁵¹ Based on interviews, the report analyses drivers and barriers encountered by public officials and other professionals in education, healthcare and law enforcement.

National governments and human rights organisations should take note of the findings of the FRA and the Commissioner for Human Rights and address the gaps identified in national legislation and policy. The recommendations found in the reports from both institutions are a very useful resource, as are the national reports, online at: <http://fra.europa.eu/en/project/2015/homophobia-transphobia-and-discrimination-lesbian-gay-bisexual-trans-and-intersex/country-data> and <http://www.coe.int/en/web/commissioner/thematic-work/lgbti-country-studies>

9.1.4 The Eurobarometer

The *Special Eurobarometer on Discrimination* regularly assesses attitudes among the EU population towards certain social groups. Since 2013, the Eurobarometer also includes questions on acceptance of trans people.²⁵² Regular comparable surveys are important to show changes in attitudes, and can inform decision makers about where more efforts are needed. In 2015, the survey found that more than 60% of respondents would be comfortable with a trans colleague at work, believe trans people should be able to access legal gender recognition, and that information about gender identity should be included in school lessons and materials.²⁵³

Data collection on the legal and social situation of trans people is an important basis for sound decision making. European and national policy makers are encouraged to regularly collect data on the living situation of trans people.

9.2 Data collection at the national level

9.2.1 Trans hate crime statistics

The **Swedish National Council for Crime Prevention (Brå)** publishes statistical data on crimes in Sweden, including through the *Swedish Crime Barometer*. Brå also publishes data specifically on hate crime, including a separate category for trans people/ gender identity. Importantly, Brå published data on hate crimes by using key word searches in police reports before Swedish hate crime legislation was interpreted as covering trans people and even before the police had a specific trans hate crime tick box in their hate crime report sheet.

Homophobic and transphobic hate crimes are collected separately and presented in different chapters of Brå's report.²⁵⁴ A list of search terms is a key component in the collection of data from the incident descriptions included in reports of an offence in order to establish the motivation for the crime. Data has been collected on hate crime committed against sexual orientation and gender identity minorities using search terms such as 'gay', 'lesbian', or commonly used slurs such as 'tranny' and others.

A similar key word search analysis in police records is done by the *Police College of Finland* in its hate crime report.²⁵⁵

9.2.2 Census and Large Scale Studies

Trans people and their experiences fall often between the cracks of large-scale data collection and thus remain invisible to policy makers. The **Australian Bureau of Statistics** and **Statistics New Zealand** have each developed a statistical standard for the collection and dissemination of data on gender identity. The *New Zealand Statistical Standard for Gender Identity* recognises, besides the categories of 'male' and 'female', a 'gender diverse' category.²⁵⁶ It was developed through consultation with groups representing people with different gender identities, and with government organisations which will use the new classifications. The *Australian Standard for Sex and Gender Variables, 2016* distinguishes between 'sex' and 'gender' variables and introduces «other» as an option in the *Gender Standard Classification* for "Adults and children who identify as non-binary, gender diverse, or with descriptors other than man/boy or woman/girl."

There is as yet no statistical methodology available that would allow for an accurate reflection of the whole range of different trans identities. The U.S.-based Williams Institute's *Best Practices for Asking Questions to Identify Transgender and Other Gender Minority Respondents on Population-Based Surveys*²⁵⁷ offers, however, a good starting point from which to document trans people's perspectives in population-based surveys.

9.2.3 Assessing Trans Needs on the Local Level – Brighton & Hove Council

The *Trans Needs Assessment*²⁵⁸ was launched in September 2015 and focused on the needs of the trans population on a larger scale. It made 62 recommendations for improvements in the city of **Brighton** and **UK-wide**. Brighton & Hove Council undertook this in partnership with the trans community, *Brighton & Hove LGBT Switchboard* and the University of Brighton. Evidence was collected in the form of a community research project and stakeholder interviews, involving members of Brighton & Hove's trans community at every step of the way and including members of the local trans coalition as well as representatives from the National Health Service and Sussex Police on the steering group for this project.

9.3 Data collection by civil society

9.3.1 The United States' transgender discrimination survey

In 2016, the National Center for Transgender Equality (NCTE) published the largest survey on transgender lives and experiences to date. This report collected information from nearly 28,000 interviews with trans and gender nonconforming people around the country. The research paints a dramatic picture of the prevalence of discrimination against trans people in the **United States**.



Figure 52
The Report of the 2015 U.S. Transgender Survey.
Photo: NTCE

Researchers who intend to conduct large scale studies on this situation of trans people in their respective societies should refer to the Report of the 2015 U.S. Transgender Survey as one of their key resources.

9.3.2 Transrespect versus Transphobia Worldwide

Transrespect versus Transphobia Worldwide (TvT)²⁵⁹ is an ongoing worldwide comparative, qualitative and quantitative research project conducted by Transgender Europe in close cooperation with regional partner organisations. The project provides an overview of the human rights situation of trans people, and collates useful data and prepares advocacy tools for the use of international institutions, human rights organisations, and the trans movement.

The TvT project includes the following sub-projects:

1. *Trans Murder Monitoring* (TMM)²⁶⁰ is the world-leader in providing systematic collection, monitoring and analysis of reported killings of gender-diverse/trans people worldwide.
2. *Legal and Social Mapping*²⁶¹ provides an overview of existing laws, law proposals, and actual legal and healthcare practices as well as diverse aspects of the social situation relevant to gender-diverse/trans people. It currently comprises data from 190 countries in six world regions including all 49 European countries. The *Global Review*²⁶² research report from 2012 presents, discusses and contextualises the key findings of the two sub-projects.
3. The third sub-project is a *Survey on the Social Experiences of Trans and Gender-Diverse People*,²⁶³ which addresses experiences of both Transphobia and Transrespect and has been developed and conducted together with partner organisations in 2012 and 2014 in **Colombia, India, the Philippines, Serbia, Thailand, Tonga, Turkey and Venezuela**.²⁶⁴

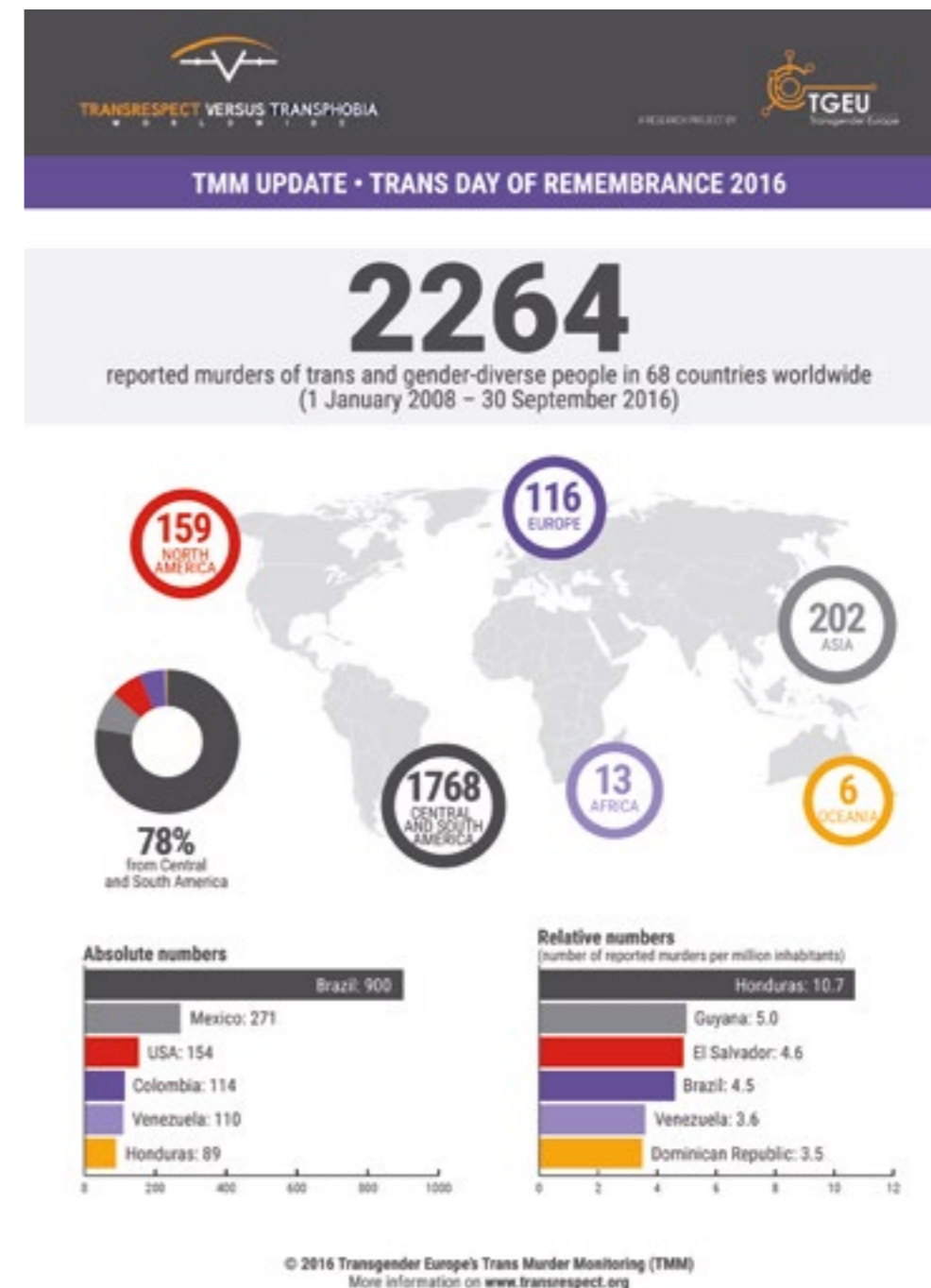


Figure 53
Results of the Trans Murder Monitoring project released on occasion of the Transgender Day of Remembrance 2016.

9.3.3 The Trans Rights Europe Map & Index

Since 2013 the Trans Rights Map & Index has provided an overview of the legal situation for trans people in 49 European countries in 23 categories.



9.3.4 The Socio-Economic Situation of Trans People in the Post-Soviet Region

In 2016, Kiev-based initiative group *AdamanT** published a study mapping the socio-economic situation and potential of trans people in the **post-Soviet Union region**.²⁶⁵ 394 self-identified trans people from 11 countries (**Russia, Ukraine, Kyrgyzstan, Belarus, Georgia, Kazakhstan, Tajikistan, Uzbekistan, Moldova, Estonia, Lithuania**) participated in the largest multi-country research in the region. The respondents, aged from 16 to 53, answered an online questionnaire focusing on drivers and barriers to employment. Quote extracts illustrate the hardship that trans people in the region experience in the labour market due to legal, medical and social barriers. The report also contains concrete recommendations for the diverse audiences of the study.

9.3.5 Supporting national data collection

TGEU's *ProTrans project*²⁶⁶ aims to increase the capacity of trans organisations to document and prevent transphobic hate crimes. The project partners collaborated in the development of an online monitoring system. Participating organisations were trained on its usage and hate crime monitoring, started documenting violent incidents against transgender persons, and used the collected data in advocacy domestically and internationally. In conjunction with the monitoring, project partners have offered community-based support services for survivors of violence and increased knowledge among the transgender population about means of redress.

ILGA-Europe's *Documentation and Advocacy Fund*²⁶⁷ was created to help national organisations collect evidence of LGBTI human rights violations. In the last years, national trans organisations and trans-themed reports have increasingly been receiving support in collecting and analysing evidence of LGBTI human rights violations in areas such as healthcare, hate crime, education or family. The Fund supports small and medium-scale projects (up to 10,000 EUR) and publishes the final reports on the ILGA-Europe website.

9.4 Mapping trans diversity

9.4.1 Research on non-binary trans people

The *Scottish Transgender Alliance* has published three pioneering reports²⁶⁸ on non-binary identified people in the **United Kingdom**. Their survey ran between July and September 2015 and collected responses from 895 self-identified non-binary persons. *Non-binary people's experiences in the UK* details the findings of the survey and focuses on experiences in services, experiences in employment, and views on legal gender recognition. *Non-binary people's experiences of using UK gender identity clinics* is a mini-report based on it, and *Including non-binary people: guidance for service providers and employers* features top tips for improving the inclusion of non-binary people.

9.4.2 The Situation of Trans Prisoners in Turkey

Civil Society in the Penal System – CISST focused on LGBTI prisoners - and particularly trans prisoners - detained in the **Turkish** prison system, pointing out their systematic maltreatment, isolation and denied access to basic goods.²⁶⁹ Prison authorities hindered data collection by hindering the researchers' attempts to actually speak to prisoners.

9.4.3 Sharing the experience of being black and minority ethnic and trans*

The small numbers of people in sub-trans communities are often cited as a hindrance to conducting research and documenting those people's experiences. The *Race Equality Foundation* showed that a numerically small focus group can still help to identify important issues. In order to support black and minority ethnic trans people developing their voice, the Foundation brought together black and minority ethnic trans individuals to talk about the issues they face in a safe space. The issues identified and discussed in greater detail were documented and made publicly available.²⁷⁰

Policy makers, service providers and community organisers should actively reach out and consult groups within the trans community that are marginalised in order to jointly develop responses on how their needs can be addressed.

ENDNOTES

- 1) www.ypinaction.org
- 2) www.ypinaction.org/resources/state-endorsements-and-policies/national
- 3) www.outrightinternational.org/content/international-role-yogyakarta-principles
- 4) <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12312&l=1>
- 5) <https://transactivists.org/2015/04/08/making-depathologization-a-matter-of-law-a-comment-from-gate-on-the-maltese-act-on-gender-identity-gender-expression-and-sex-characteristics/>
- 6) UN Committee on Economic, Social and Cultural Rights, General comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), 2 July 2009, E/C.12/GC/20
- 7) <http://arc-international.net/>
- 8) UN Human Rights Council, seventeenth session, Follow-up and implementation of the Vienna Declaration and Programme of Action, Human rights, sexual orientation and gender identity, 15 June 2011, A/HRC/17/19
- 9) UN Human Rights Council, nineteenth session, Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General, Follow-up and implementation of the Vienna Declaration and Programme of Action, Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity: Report of the United Nations High Commissioner for Human Rights, 17 November 2011, A/HRC/19/41
- 10) UN Human Rights Council, twenty seventh session, Follow-up and implementation of the Vienna Declaration and Programme of Action, Human rights, sexual orientation and gender identity, 2 October 2014, A/HRC/RES/27/32
- 11) UN Human Rights Council, twenty ninth session, Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General, Follow-up and implementation of the Vienna Declaration and Programme of Action, Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity: Report of the United Nations High Commissioner for Human Rights, 4 May 2015, A/HRC/29/23
- 12) UN Human Rights Council, thirty second session, 30 June 2016, A/HRC/RES/32/2
- 13) HR/PUB/12/06, <http://www.ohchr.org/Documents/Publications/BornFreeAndEqualLowRes.pdf>
- 14) HR/PUB/16/3, <http://www.ohchr.org/Documents/Publications/LivingFreeAndEqual.pdf>
- 15) http://www.ohchr.org/Documents/Issues/Discrimination/Joint_LGBTI_Statement_ENG.PDF
- 16) http://www.ohchr.org/Documents/Issues/Discrimination/UN_SOGL_summary25Nov2015.pdf
- 17) <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>
- 18) UN Committee on the Elimination of All Forms of Discrimination against Women, General recommendation No. 27 on older women and protection of their human rights, 16 December 2010, CEDAW/C/GC/27; and General recommendation No. 28 on the Core Obligations of State Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women, 16 December 2010, CEDAW/C/GC/28
- 19) UN Committee on the Elimination of All Forms of Discrimination against Women, General recommendation No. 32 gender-related dimensions of refugee status, asylum, nationality and statelessness of women, 14 November 2014, CEDAW/C/GC/32
- 20) UN Committee on the Elimination of All Forms of Discrimination against Women, General recommendation No. 33 on women's access to justice, 3 August 2015, CEDAW/C/GC/33
- 21) Convention CETS No. 005
- 22) Identoba and others v. Georgia, Application no. 73235/12, judgement of 12 May 2015
- 23) B v France, Application no. 13343/87, judgement of 25 March 1992
- 24) X, Y and Z v. the United Kingdom, Application no. 21830/93, judgement of 22 April 1997
- 25) Christine Goodwin & I v United Kingdom, Applications no. 28957/95 and 25680/94, judgement of 11 July 2002 (Grand Chamber)
- 26) van Kück v Germany, Application no. 35968/97, judgement of 12 June 2003
- 27) Grant v United Kingdom, Application no. 32570/03, judgment of 23 May 2006
- 28) L v Lithuania, Application no. 27527/03, judgement of 11 September 2007
- 29) P.V. v. Spain, Application no. 35159/09, judgement of 30 November 2010
- 30) Y.Y. v. Turkey, Application no. 14793/08, judgement of 10 March 2015
- 31) Convention CETS No. 117
- 32) Recommendation CM/Rec(2010)5 of the Committee of Ministers to Member States on measures to combat discrimination on grounds of sexual orientation or gender identity (Adopted by the Committee of Ministers on 31 March 2010 at the 1081st meeting of the Ministers' Deputies)
- 33) http://www.coe.int/t/dghl/standardsetting/hrpolicy/Others_issues/LGBT/Follow_up_en.asp
- 34) http://www.coe.int/t/Commissioner/Source/LGBT/LGBTStudy2011_en.pdf
- 35) PACE, Resolution 2048 (2015), Discrimination against transgender people in Europe
- 36) PACE, Resolution 1945 (2013) Putting an end to coerced sterilisations and castrations
- 37) http://www.coe.int/t/dghl/monitoring/ecri/activities/countrybycountry_en.asp
- 38) <http://www.coe.int/en/web/sogidatabase/database>
- 39) <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168066d620>
- 40) <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806942c5>
- 41) Turner, Louis; Whittle, Stephen & Combs, Ryan (2009), Transphobic Hate Crime in the European Union, London: Press for Change
- 42) <http://transrespect.org/en/map/hate-crime-legislation/>
- 43) Recommendation CM/Rec(2010)5
- 44) UN Human Rights Council, nineteenth session, Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General, Follow-up and implementation of the Vienna Declaration and Programme of Action, Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity: Report of the United Nations High Commissioner for Human Rights, 17 November 2011, A/HRC/19/41, para 84(a)
- 45) UN Human Rights Council, thirty second session, 30 June 2016, A/HRC/RES/32/2
- 46) HR/PUB/16/3, <http://www.ohchr.org/Documents/Publications/LivingFreeAndEqual.pdf>
- 47) 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, 23 October 2012, HCR/GIP/12/01
- 48) Convention CETS No. 210



- 49) Ministers' Deputies, Council of Europe Convention on preventing and combating violence against women and domestic violence (Explanatory report), 7 April 2011, CM(2011)49 addfinal, para 53
- 50) Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA
- 51) Directive 2011/95/EU of the European Parliament and of the Council (recast)
- 52) Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and withdrawing international protection (recast)
- 53) Article 2(2)(a)
- 54) Article 2(8)
- 55) 'Good Practice 17: Institutionalised co-operation between public authorities and LGBT communities in Scotland', in Polacek, Richard & Le Déroff, Joël (2010), *Joining forces to combat homophobic and transphobic hate crime. Cooperation between police forces and LGBT organisations in Europe*, Brussels: ILGA-Europe, p 64-66
- 56) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/543679/Action_Against_Hate_-_UK_Government_s_Plan_to_Tackle_Hate_Crime_2016.pdf
- 57) <http://library.college.police.uk/docs/college-of-policing/Hate-Crime-Operational-Guidance.pdf>
- 58) <http://hatecrime.osce.org/infocus/2015-data>
- 59) Paterson, Susan; Kielinger, Vicky & Fletcher, Hazel (2008), *Women's Experience of Homophobia and Transphobia: Survey Report*, London: Metropolitan Police Service
- 60) Ibid, p 27
- 61) Association of Chief Police Officers in Scotland, *Transgender People in Custody Guidance*, online at: www.acpos.police.uk/Documents/Policies/ED_TransgenderPeopleCustodyGuidanceV2.pdf
- 62) 'Good Practice 16: The role of LGBT community liaison officers in the combat against LGBT-phobic hate crime', in Polacek, Richard & Le Déroff, Joël (2010), *Joining forces to combat homophobic and transphobic hate crime. Cooperation between police forces and LGBT organisations in Europe*, Brussels: ILGA-Europe, p 59-61
- 63) Compendium of good practices on local and regional level policies to combat discrimination on grounds of sexual orientation and gender identity, published by the Council of Europe in 2016 <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806942c5>
- 64) ipd
- 65) www.egyuttagyuloletellen.hu
- 66) <http://www.riseuk.org.uk/index.asp?PageID=106#.WFFCIZLhm8U>
- 67) Iganski, Paul, *Understanding the needs of persons who experience homophobic or transphobic violence or harassment - the impact of hate crime* (2016), http://hatenomore.net/publ/06-summary-en/06-summary_EN.pdf
- 68) <http://hatenomore.net/publ/03-toolkit-miedzyn/03-toolkit-miedz.pdf>
- 69) <http://tinyurl.com/zb8g684>
- 70) <https://www.prearesourcecenter.org/about/prison-rape-elimination-act-prea>
- 71) <http://srlp.org/about/prisoner-advisory-committee/>
- 72) <http://srlp.org/category/pac/>
- 73) http://www.ilga-europe.org/sites/default/files/good_practices_related_to_lgbti_asylum_applicants_in_europe_jul14.pdf
- 74) http://tgeu.org/wp-content/uploads/2016/10/TGEU_TransAsylumBrochure_WEB.pdf
- 75) <https://edoc.coe.int/en/lgbt/6963-protecting-human-rights-of-transgender-persons.html>
- 76) <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=12312&l=1>
- 77) http://tgeu.org/toolkit_legal_gender_recognition_in_europe/
- 78) L 182, Motion to amend the Act on the (Danish) Civil Registration System, Danish original: http://www.ft.dk/R1pdf/samling/20131/lovforslag/L182/20131_L182_som_vedtaget.pdf; English translation: http://tgeu.org/sites/default/files/Denmark_Civil_Registry_law.pdf
- 79) Ireland, Gender Recognition Act, <http://www.oireachtas.ie/documents/bills28/acts/2015/a2515.pdf>
- 80) For more information on the process of how to obtain a Gender Recognition Certificate see: <https://www.welfare.ie/en/Pages/GRC1.aspx>
- 81) adopted proposal 74L, Law amending the legal gender, Norwegian original: <https://www.stortinget.no/globalassets/pdf/lovvedtak/2015-2016/vedtak-201516-071.pdf>; English translation: <http://tgeu.org/wp-content/uploads/2016/07/Prop74LEng.pdf>
- 82) Find more information here: <http://www.deedpoll.org.uk/>
- 83) Supreme Administrative Court, Case 2893-09, 28.09.2009
- 84) Gesetz über die Änderung der Vornamen und die Feststellung der Geschlechtszugehörigkeit in besonderen Fällen
- 85) Online at: www.gesetze-im-internet.de/pa_g_1986/index.html (in German)
- 86) Landesarbeitsgericht Hamm (Westfalen) [Superior Court of Justice of Hamm (Westphalia)], 4 Sa 1337/98, 17.12.1998
- 87) http://tgeu.org/trans-rights_europe_map_2016/
- 88) refer to http://tgeu.org/trans-rights_europe_map for up to date information
- 89) Online at: [sip.parlamento.gub.uy/leyes/AccesoTextoLey.asp?Ley=18620&Anchor=\(in Spanish\)](http://sip.parlamento.gub.uy/leyes/AccesoTextoLey.asp?Ley=18620&Anchor=(in Spanish))
- 90) <http://www.proceso.com.mx/395132>
- 91) Verwaltungsgerichtshof [Administrative Court], 2008/17/0054, 27.02.2009; and Verfassungsgerichtshof [Administrative Court], B 1973/08-13, 03.12.2009
- 92) Application no. 37359/09
- 93) Goodwin & I v UK, Applications no. 28957/95 and 25680/94, judgement of 11 July 2002 (Grand Chamber)
- 94) House of Commons Women and Equalities Committee, *Transgender equality inquiry*, 08 December 2015 <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmwomeq/390/39002.htm>
- 95) Verfassungsgerichtshof [Administrative Supreme Court], VwGH 2010/17/0042, 29.11.2010
- 96) Stockholm Administrative Court of appeal, Case no. 3201-14, 9 July 2015, Göteborg Administrative Court of appeal, Case no. 6186-14, 5 October 2015
- 97) <http://www.coe.int/en/web/sogi/rec-2010-5>
- 98) P. v. S and Cornwall County Council, Case C-13/94, [1996] ECR I-2143
- 99) Ibid, Article 20
- 100) K.B. v National Health Service Pensions Agency and Secretary of State for Health, Case C-117/01, [2004] ECR I-541
- 101) Sarah Margaret Richards v Secretary of State for Work and Pensions, Case C-423/04, [2006] ECR I-3585



- 102) Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services [following the 2606th meeting of the Council of the European Union (Employment, Social Policy, Health and Consumer Affairs) held in Luxembourg on 4 October 2004, Draft minutes, Doc. No. 13369/04 of 27 October 2004, p 7]
- 103) Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)
- 104) http://ec.europa.eu/justice/gender-equality/files/law_reviews/directive_2004_113_report_en.pdf
- 105) 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)
- 106) <http://www.equalitylaw.eu/downloads/2671-trans-and-intersex-people>
- 107) http://ec.europa.eu/justice/discrimination/files/lgbti_actionlist_en.pdf
- 108) <https://lovdata.no/dokument/NL/lov/2013-06-21-58> (in Norwegian)
- 109) <http://www.finlex.fi/fi/laki/alkup/2014/20141329> (in Finnish and Swedish)
- 110) https://socialdialogue.gov.mt/en/Public_Consultations/MSDC/Documents/2015%20HREC%20Final/Bill%20-%20Equality%20Act.pdf
- 111) Online at: www.homeoffice.gov.uk/equalities/equality-act/
- 112) Equality and Human Rights Commission (2011), The essential guide to the public sector equality duty (Vol. 1 of 5), United Kingdom: EHRC, online at: www.equalityhumanrights.com/uploaded_files/EqualityAct/PSED/essential_guide_guidance.pdf
- 113) <http://socialdialogue.gov.mt/en/Documents/LGBTIQ%20Action%20Plan/LGBTI%20Action%20Plan%20lo%20res.pdf>
- 114) <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804931c4>
- 115) <http://gov.wales/docs/dsjlg/publications/equality/160314-transgender-action-plan-en.pdf>
- 116) Working for Lesbian, Gay, Bisexual and Transgender Equality: Moving Forward, online at: www.homeoffice.gov.uk/publications/equalities/lgbt-equality-publications/lgbt-action-plan
- 117) HM Government (2011), Advancing transgender equality: a plan for action, online at: www.homeoffice.gov.uk/publications/equalities/lgbt-equality-publications/transgender-action-plan
- 118) <http://www.lgbtconsortium.org.uk/transmanifesto>
- 119) http://www.lsvd.de/fileadmin/pics/Dokumente/Bildung/CCF_LSBTTIQ_Synopse.pdf
- 120) <http://www.coe.int/en/web/sogidatabase>
- 121) Adopted by General Assembly resolution 48/134 of 20 December 1993
- 122) http://ec.europa.eu/justice/gender-equality/files/law_reviews/directive_2004_113_report_en.pdf
- 123) Online at: www.notisum.se/rnp/sls/lag/20080568.htm (in Swedish)
- 124) http://www.equineteurope.org/IMG/pdf/gender_strategy_perspective_-_eng_-_electronic_version.pdf
- 125) EQUINET (2010), Making equality legislation work for trans people, Brussels: EQUINET
- 126) http://www.equineteurope.org/IMG/pdf/equinet_lgbti_training_agenda.pdf
http://www.equineteurope.org/IMG/pdf/summary_lgbti_training.pdf
- 127) http://www.equineteurope.org/IMG/pdf/equinet_gender_training_agenda_23-24_09_2014.pdf
- 128) Online at: www.tasa-arvo.fi/en/discrimination/gender_minorities
- 129) For more information on the work done by the Finnish Ombudsman with a survey on equality questions for gender minorities, refer to the EQUINET 2015 report
- 130) <https://www.equalityhumanrights.com/en/search?text=trans>
- 131) Agius, Silvan & Tober, Christa, Trans and intersex people - Discrimination on the grounds of sex, gender identity and gender expression, European Network of Legal Experts in the non-discrimination field (European Commission 2011)
- 132) Motmans, Joz (2009), Being transgender in Belgium: Mapping the social and legal situation of transgender people in Belgium, Brussels: Institute for the Equality of Women and Men
- 133) http://www.antidiskriminierungsstelle.de/DE/ThemenUndForschung/Geschlecht/Themenjahr_2015/themenjahr2015_node.html
- 134) http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/publikationen/Handlungsempfehlungen_Kommission_Geschlecht.html
- 135) <https://www.bmfsfj.de/bmfsfj/themen/gleichstellung/gleichgeschlechtliche-lebensweisen-geschlechtsidentitaet>
- 136) See the EQUINET 2015 report on gender equality
- 137) <http://tgeu.org/trans-peoples-eu-employment-rights-gender-recognition-laws/>
- 138) <https://www.unison.org.uk/content/uploads/2016/09/Transgender-workers-rights.pdf>
- 139) <https://www.unison.org.uk/content/uploads/2015/11/Guide-for-reps-supporting-trans-members-2015.pdf>
- 140) <https://www.unison.org.uk/content/uploads/2016/12/Intersex-equality.pdf>
- 141) <https://www.unison.org.uk/get-help/knowledge/discrimination/transgender-discrimination/>
- 142) <http://workplacepride.org/2016-global-benchmark-edition/>
- 143) <http://www.rfsl.se/certifisering-och-utbildning/> (in Swedish)
- 144) http://www.charta-der-vielfalt.de/uploads/tx_dreipccddiversity/Richtlinien%20zur%20Geschlechtsangleichung.pdf
- 145) <http://transexualia.org/socio-laboral/>
- 146) <http://www.businessinsider.com/transcidadania-could-change-the-lives-of-trans-people-everywhere-2015-9?IR=T>
- 147) <http://transgenderinfo.be/wp-content/uploads/Beleidskader.pdf>
- 148) <https://www.transgender-network.ch/organisation/arbeitsgruppen/>
- 149) https://www.berlin.de/lb/ads/_assets/english-publications/tia_project_folder_en_bf.pdf
- 150) <https://education.gov.mt/en/resources/Documents/Policy%20Documents/Trans,%20Gender%20Variant%20and%20Intersex%20Students%20in%20Schools%20Policy.pdf>
- 151) <http://tgeu.org/wp-content/uploads/2015/06/Malta-Education-Procedures.pdf>
- 152) <http://www.tcd.ie/about/policies/assets/pdf/Gender%20Identity%20and%20Gender%20Expression%20PolicyFINAL.pdf>
- 153) https://www.unilu.ch/fileadmin/universitaet/unileitung/dokumente/reglemente_studium/Richtlinien_Transmenschen_Studierende_def.pdf
- 154) The Living History Forum & RFSL Ungdom (2009), Break the Norm! methods for studying norms in general and the heteronorm in particular
- 155) <http://www.education.ie/en/Schools-Colleges/Information/Bullying/Anti-Bullying-Procedures-in-Schools.html>
- 156) <http://www.education.ie/en/Publications/Education-Reports/Being-LGBT-in-School.pdf>
- 157) <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168064e895>
- 158) <http://www.fundaciondaniela.org/profesionales/area-socioeducativa-2/>
- 159) https://socialdialogue.gov.mt/en/Pages/Media/Press_Releases/PR161534.aspx



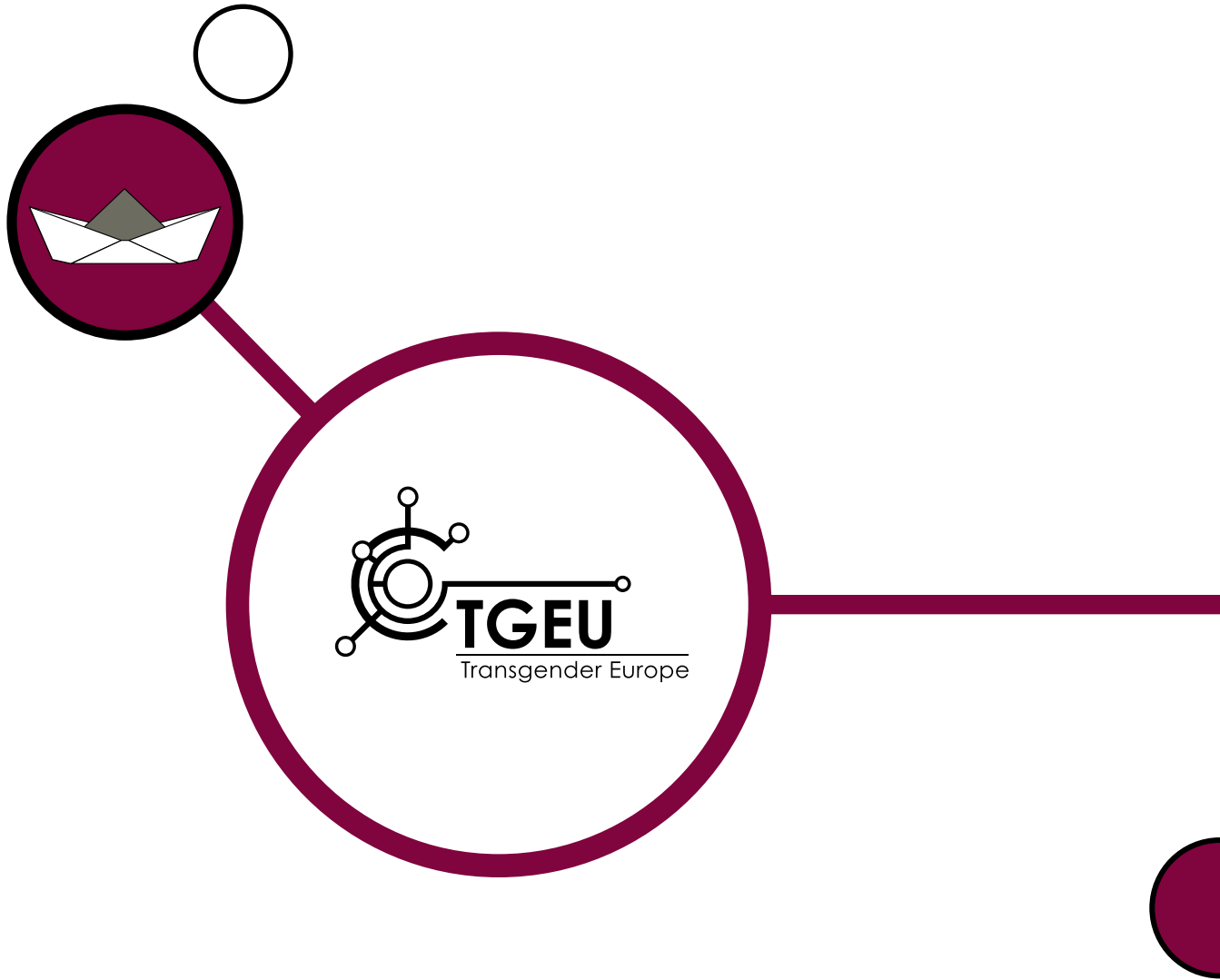
- 160) <http://nltimes.nl/2016/06/06/leiden-univ-test-gender-neutral-toilets>
- 161) <http://www.dutchnews.nl/news/archives/2016/07/utrecht-council-goes-for-gender-neutral-toilets/>
- 162) <http://nltimes.nl/2016/07/21/amsterdam-city-hall-get-gender-neutral-toilets>
- 163) <http://www.berliner-zeitung.de/berlin/unisex-toiletten-eine-fuer-alle-3817840>
- 164) <http://www.dailymail.co.uk/news/article-2280331/Brighton-Council-open-gender-neutral-public-toilets-phases-male-female-lavatories.html>
- 165) http://www.elespanol.com/espana/20160124/96990317_0.html
- 166) <https://www.facebook.com/transswimmingbrighton>
- 167) http://mashable.com/2016/08/28/transgender-swimming-group-tags-uk/#DO7oz_b3r8qa
- 168) Whittle, Stephen; Turner, Louis; Combs, Ryan; & Rhodes, Stephenne (2008), Transgender EuroStudy: Legal Survey and Focus on the Transgender Experience of Healthcare, Brussels: ILGA-Europe
- 169) WPATH Clarification on Medical Necessity of Treatment, Sex Reassignment, and Insurance Coverage for Transgender and Transsexual People Worldwide, online at: www.wpath.org/medical_necessity_statement.cfm
- 170) Recommendation CM/Rec(2010)5 online at: <http://www.coe.int/en/web/sogi/rec-2010-5>
- 171) PACE Resolution 2048 (2015) online at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=21736&lang=en>
- 172) http://www.psi.uba.ar/academica/carrerasdegrado/psicologia/sitios_catedras/obligatorias/723_etica2/cursada/bibliografia_digital/ley_26743_identidad_genero.pdf (in Spanish)
- 173) <http://www.msal.gob.ar/images/stories/bes/graficos/0000000696cnt-guia-equipos-atencion-Salud%20integral-personas-trans.pdf> (in Spanish)
- 174) Schlumpf v Switzerland, (Application No 29002/06), online at: <http://hudoc.echr.coe.int/eng?i=001-90476>
- 175) [1999] EWCA Civ 2022, online at: <http://swarb.co.uk/north-west-lancashire-health-authority-v-a-d-and-g-ca-29-jul-1999/>
- 176) Berlin Social Court Case S 51 KR 2136/13
- 177) http://igum-iefh.belgium.be/sites/default/files/97_-_conclure_une_assurance_hospitalisation.pdf
- 178) <http://www.equineteurope.org/Belgium-Insurers-are-not-allowed-to-discriminate-against-transgender-people>
- 179) <http://tgeu.org/idahot2016statement/>
- 180) <http://tgeu.org/malta-depathologises-trans-identities/>
- 181) The World Professional Association for Transgender Health, Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People (7th version), online at: http://www.wpath.org/site_page.cfm?pk_association_webpage_menu=1351
- 182) <http://www.socialstyrelsen.se/jamlikhalsa-vardochomsorg/hbtq/personermedkonsdysfori> (in Swedish)
- 183) Health Policy Project, Asia Pacific Transgender Network, United Nations Development Programme. 2015. Blueprint for the Provision of Comprehensive Care for Trans People and Trans Communities, Washington, DC: Futures Group, Health Policy Project. Online at: http://www.asia-pacific.undp.org/content/rbap/en/home/library/democratic_governance/hiv_aids/blueprint-for-the-provision-of-comprehensive-care-for-trans-peop.html
- 184) <http://gires.org.uk/gender-variance>
- 185) <http://elearning.rcgp.org.uk/course/info.php?popup=0&id=169>
- 186) <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmwomeq/390/390.pdf>
- 187) <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/women-and-equalities-committee/transgender-equality/written/20376.pdf>
- 188) See www.nhs.uk/Livewell/Transhealth/Pages/Transhealthhome.aspx
- 189) <http://www.ngicns.scot.nhs.uk/>
- 190) <http://transgenderinfo.be/l/zorgaanbod/>
- 191) <http://callen-lorde.org/>
- 192) <http://fenwayhealth.org/>
- 193) <http://howardbrown.org/wp/>
- 194) <http://transhealth.ucsf.edu/trans?page=home-00-00>
- 195) <http://transhealth.ucsf.edu/trans?page=guidelines-home>
- 196) <https://cliniq.org.uk/>
- 197) <http://transpulseproject.ca/>
- 198) http://transpulseproject.ca/wp-content/uploads/2013/10/Trans_PULSE_Resource_List_-FINAL.pdf
- 199) Fundamental Rights Agency, Protection against discrimination on grounds of sexual orientation, gender identity and sex characteristics in the EU – Comparative legal analysis, Update 2015, <http://fra.europa.eu/en/publication/2015/lgbti-comparative-legal-update-2015>
- 200) CPT/Inf (2015) 34
- 201) Regional Criminal Court of Vienna, decision 29 April 2016, 190 Bl 11/16x
- 202) www.fundaciondaniela.org (in Spanish)
- 203) <http://www.undp.org/content/undp/en/home/librarypage/hiv-aids/implementing-comprehensive-hiv-and-sti-programmes-with-transgend.html>
- 204) http://www.who.int/hiv/pub/sti/sex_worker_implementation/en/
- 205) GATE and AJWS, The State of Trans* and Intersex Organizing, 2014 <https://transactivists.org/resources/documents/funding-report/>
- 206) See www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/dh-lgbt_docs/dh-lgbt_committee_EN.asp
- 207) ILGA-Europe (2009) Submission to the Council of Europe Ad Hoc Committee on Preventing and Combating Violence Against Women and Domestic Violence: The need to ensure that the Convention on violence against women addresses effectively the obligation of Member States to prevent and combat violence against lesbian, bisexual and transgender women.
- 208) http://tgeu.org/wp-content/uploads/2015/04/Malta_GIGESC_trans_law_2015.pdf
- 209) <https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/inquiries/parliament-2015/transgender-equality/publications/>
- 210) <http://www.maltatoday.com.mt/news/national/26263/government-launches-lgbt-consultative-council-20130422#.WCtQF9yT1-I>
- 211) http://socialdialogue.gov.mt/en/Public_Consultations/MSDC/Pages/Consultations/GIGESC.aspx
- 212) <https://globaltransaction.files.wordpress.com/2014/09/advancing-trans-movements-worldwide-2014.pdf>
- 213) <http://www.transfund.org/>
- 214) <http://tgeu.org/norway-lgr/>
- 215) http://fra.europa.eu/DVS/DVT/lgbt.php?locale=EN&dataSource=LGBT&media=png&width=740&plot=euBars&topic=5.+Transgender+specific+questions&question=tr6_e&superSubset=1&subset=lgbtcat_sex&subsetValue=05--Transgender
- 216) <http://www.lgbt-ep.eu/intergroup-documents/upcoming-event-transgender-rights-at-work/>
- 217) <http://tgeu.org/trans-peoples-eu-employment-rights-gender-recognition-laws/>



- 218) <http://www.europarl.europa.eu/news/en/news-room/20150603AVI62403/lydia-foy-receives-the-european-citizen-s-prize-from-the-european-parliament>
- 219) <https://www.outrightinternational.org/content/international-conference-human-rights-sexual-orientation-and-gender-identity>
- 220) <http://teni.ie/event.aspx?contentid=1336>
- 221) <https://lgbtnewsturkey.com/2014/03/09/spod-lgbti-friendly-municipality-protocol/>
- 222) <http://www.schattenblick.de/infopool/buerger/meinung/bmsp0080.html>
- 223) <http://pinchukartcentre.org/en/exhibitions/29397/patriots-citizens-lovers>
- 224) <http://europeandiversityawards.com/winner-2016/>
- 225) <http://www.mermaidsuk.org.uk/about-mermaids.html>
- 226) Video online at <https://www.youtube.com/watch?v=OEhKTKrfvSU>
- 227) Video online at <https://www.youtube.com/watch?v=INNaVcPII9E>
- 228) <http://www.gmc-uk.org/guidance/28851.asp>
- 229) <http://elearning.rcgp.org.uk/gendervariance>
- 230) www.e-path.eu
- 231) Join at: groups.yahoo.com/group/transmedicine/
- 232) Online at: transhealth.ucsf.edu/trans?page=lib-providers
- 233) <http://help.elearning.ext.coe.int/mod/scorm/view.php?id=29770>
- 234) Trans Media Watch (2010), How Transgender People Experience the Media: Conclusions from research November 2009-February 2010
- 235) Online at: <http://www.transmediawatch.org/Documents/Memorandum%20of%20Understanding.pdf>
- 236) <http://www.iglyo.com/resources/intersectionality-toolkit-2014/>
- 237) <http://bit.ly/1XrRlXg>
- 238) Supra 14, Recommendation 1
- 239) http://www.coe.int/t/dghl/standardsetting/hrpolicy/Others_issues/LGBT/Follow_up_en.asp
- 240) Resolution of 4 February 2014 on the EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity (2013/2183(INI))
- 241) Commissioner for Human Rights (2011), Discrimination on grounds of sexual orientation and gender identity in Europe, Strasbourg: Council of Europe
- 242) Ibid (2011), Discrimination on grounds of sexual orientation and gender identity in Europe – Background Document
- 243) Ibid, p 3
- 244) Ibid, p 129-135
- 245) European Union Agency for Fundamental Rights (2009), Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity in the EU Member States: Part II - The Social Situation, Luxembourg: Publications Office of the European Union
- 246) Ibid (2009), Challenges Facing Transgender Persons, online at: fra.europa.eu/fraWebsite/attachments/Factsheet-homophobia-transgender_EN.pdf
- 247) Ibid (2010), Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity - 2010 Update: Comparative Legal Analysis
- 248) <http://fra.europa.eu/en/theme/lgbt/publications>
- 249) <http://fra.europa.eu/en/publication/2014/eu-lgbt-survey-european-union-lesbian-gay-bisexual-and-transgender-survey-main>
- 250) <http://fra.europa.eu/DVS/DVT/lgbt.php>
- 251) <http://fra.europa.eu/en/publication/2016/professional-views-lgbt-equality>
- 252) <http://tgeu.org/tgeu-media-release-rejection-and-unawareness-eurobarometers-first-findings-on-attitudes-towards-trans-people/>
- 253) Download the full Special Eurobarometer 437 “Discrimination in the EU in 2015” here: http://tgeu.org/wp-content/uploads/2016/10/EU_eurobarometer_2015_437.pdf and see TGEU’s publication on the trans-specific questions here: <http://tgeu.org/attitudes-towards-trans-people-in-the-european-union-2015/>
- 254) Brå (2011), Hate crimes 2010: Statistics relating to offences reported to the police with an identified hate crime motive (A summary of report 2011:8), Stockholm: Brå
- 255) Peutere, Laura (2010), Hate Crimes Reported to the Police in Finland, Reports of the Police College of Finland 85/2009, Tampere: Police College of Finland
- 256) <http://www.stats.govt.nz/methods/classifications-and-standards/classification-related-stats-standards/gender-identity.aspx>
- 257) <http://williamsinstitute.law.ucla.edu/research/census-lgbt-demographics-studies/geniuss-report-sept-2014/>
- 258) <https://www.bhconnected.org.uk/sites/bhconnected/files/Brighton%20%26%20Hove%20Trans%20Needs%20Assessment%202015.pdf>
- 259) TvT Research Project (2011), Transrespect versus Transphobia Worldwide, www.transrespect-transphobia.org
- 260) <http://transrespect.org/trans-murder-monitoring/>
- 261) <http://transrespect.org/map/pathologization-requirement/>
- 262) http://transrespect.org/wp-content/uploads/2015/08/TvT_research-report.pdf
- 263) <http://transrespect.org/en/research/estudio-de-los-paises/>
- 264) <http://transrespect.org/wp-content/uploads/2015/08/TvT-PS-Vol9-2015.pdf>
- 265) Adamant (2016), CURRENT SOCIOECONOMIC SITUATION OF TRANSGENDER AND QUEER INDIVIDUALS IN POST-SOVIET UNION REGION - Report, Kiev: online at: <http://adaman-t.org.ua/en/2016/11/current-socioeconomic-situation-of-transgender-and-queer-individuals-in-post-soviet-union-region/>
- 266) <http://tgeu.org/pro-trans/>
- 267) <http://www.ilga-europe.org/what-we-do/our-work-supporting-movement/funder/daf>
- 268) <http://www.scottishtrans.org/non-binary/>
- 269) Civil Society in the Penal System – CISST (2015), Being A Disabled, Foreign or LGBTI Prisoner: A CSOs Network on Prisoners with Special Needs Project Report, accessible at: <http://www.tcps.org.tr/sites/default/files/kitaplar/rapor2015-internet-eng.pdf>
- 270) Race Equality Foundation, Sharing the experience of being black and minority ethnic and trans* - Report of a focus group held by the Race Equality Foundation on 5th November 2014, accessible at: <http://tinyurl.com/hhdqza2>







www.tgeu.org