

LGBTQI RIGHTS

KNOW

The Charter of Fundamental Rights and the EU's Directive 2000/78 explicitly prohibit discrimination on the basis of sexual orientation in certain circumstances. Article 21 of the Charter states that: "Any discrimination based on the grounds of... sexual orientation shall be prohibited." Trans persons are less explicitly protected in EU law – trans discrimination¹ is prohibited under the grounds of 'sex' under the Charter of Fundamental rights, with the 2006 Gender Equality Directive prohibiting discrimination in employment on the grounds of gender reassignment.²

All EU member states have made it illegal to discriminate on the basis of sexual orientation in the workplace, as well as in implementing EU rights and laws. As of 2014, 24 EU member states³ had prohibited discrimination on the basis of sexual orientation beyond just in the workplace.

EU laws do not however extend to prohibit discrimination against trans persons or on the basis of sexual orientation beyond the field of employment. Many countries in Europe⁴ require transgender persons to be sterilised to change their gender, while some countries in Europe do not legally recognise the gender identities of transgender persons. Same-sex marriage and adoption is not possible in all EU member states and they do not have to recognise same-sex marriages conducted in other EU countries.⁵

Violence and discrimination⁶ against persons identifying as LGBTQI occurs across the EU. A number of EU member states do not include sexual orientation and gender identity as grounds for hate crimes.

UNDERSTAND

Alongside rights such as freedom of movement, the Treaty on the Functioning of the European Union (TFEU), through Article 19 paragraph 1 also includes the right to non-discrimination on the

¹ http://fra.europa.eu/sites/default/files/fra-2014-being-trans-eu-comparative_en.pdf

² http://fra.europa.eu/sites/default/files/fra-2014-being-trans-eu-comparative_en.pdf

³ <http://fra.europa.eu/en/speech/2014/tackling-sexual-orientation-and-gender-identity-discrimination-next-steps-eu-and-member>

⁴ <http://tgeu.org/trans-rights-europe-map-2015/>

⁵ http://europa.eu/youreurope/citizens/family/couple/marriage/index_en.htm

⁶ <https://www.amnesty.org/en/countries/europe-and-central-asia/report-europe-and-central-asia/>

grounds of sexual orientation. It allows the European Union to adopt legislation aimed at combating sexual orientation discrimination, as long as it falls within its areas of responsibility.

Directive 2000/78/EC (2000) established a general framework for equal treatment in employment and occupation. This directive aims to protect European workers from any form of discrimination resulting from sex, age, race, sexual orientation etc. This was strengthened by the Lisbon Treaty, which elevated the Charter on Fundamental Rights to the same status as the other treaties and which prohibits 'any discrimination based on the grounds of... sexual orientation.'

Directive 2000/78/EC represented an important step in the prohibition of discrimination on sexual orientation in the workplace, as many European states did not at the time have adequate anti-discrimination laws. Directive 2006/54/EC further extended this to cover discrimination based on sex in the workplace, explicitly stating that this covers discrimination arising from gender reassignment.

The Commission's report on Directive 2000/78/EC⁷ and Directive 2006/54/EC⁸ state that to date all member states have for the most part implemented both Directives. Nevertheless the report on Directive 2000/78/EC points out that some difficulties remain in implementation, while the report for Directive 2006/54/EC highlights that only four member states have explicitly prohibited discrimination on the grounds of gender reassignment, with other states relying on broader terms.

These Directives however only cover discrimination relating to the workplace and do not require member states to prohibit discrimination on the grounds of sexual orientation or gender identity in other fields:

A 2012 LGBT survey⁹ conducted by the European Union's Fundamental Rights Agency found that many LGBTQI persons face discrimination and violence.

- Between 1/5 and 3/5 trans people reported that they felt that had been discriminated or harassed due to being perceived as transgender.
- In some countries, 2/5 people surveyed reported that they avoid being open about themselves as LGBT out of fear of harassment or violence, and
- Across the EU between 36% and 79% of people surveyed avoid holding hands with their same sex partner in public out of fear of being assaulted, threatened or harassed.

⁷ http://ec.europa.eu/justice/discrimination/files/com_2014_2_en.pdf

⁸ http://ec.europa.eu/justice/gender-equality/files/gender_pay_gap/com-2013-861-final_en.pdf

⁹ <http://fra.europa.eu/DVS/DVT/lgbt.php>

- A proposed directive on equal treatment¹⁰ between persons irrespective of religion or belief, disability, age or sexual orientation outside of the workplace has been under discussion since 2008, but has not yet been passed.



This project is funded by the Fundamental Rights and
Citizenship programme of the European Union

CITIZENRIGHTS
A project by European Alternatives

¹⁰ <http://www.socialplatform.org/news/state-of-play-of-the-blocked-equal-treatment-directive/>