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**COMPREHENSIVE REVIEW OF
THE IMPLEMENTATION OF
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**



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EL*C SHADOW REPORT – COMPREHENSIVE REVIEW OF THE IMPLEMENTATION OF 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

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Introduction

Recommendation (2010)5 of the Council of Europe (CoE)¹ is one of the world’s first international legal instruments dealing specifically with discrimination on the grounds of sexual orientation and gender identity. As such, it is crucial for LBQ women and non-binary persons.

The Recommendation recognised the structural and historical discrimination faced by LGBTI people and pointed out that specific actions are required by states to tackle such inequalities and ensure the full enjoyment of human rights. 14 years on from its approval, it must be said that most of the member states fail to ensure societies free of discrimination. LGBTI people, and in particular **LBQ women and non-binary persons’ rights are threatened by global forces that have emerged and strengthen in the past years**, such as **anti-gender actors** and **far rights movements**. Ongoing wars and genocides, pandemics and the climate crisis with their negative impact on democratic societies put all minorities, including LBQ women, in an even greater danger.

This report explores the principles and measures of the Recommendation, with a particular focus on the experience of LBQ women. Unfortunately, **the Recommendation** itself, despite mentioning multiple discrimination, **failed in providing for LBQ women**. This monitoring cycle still shows a lack of attention towards gender. Very few parts in the questionnaire developed by the CoE Steering Committee on Anti-discrimination, Diversity and Inclusion take gender in consideration and specifically refer to lesbian, bisexual and trans women. It **is especially concerning that women of the LGBTI community were not explicitly included in the questions on multiple discrimination**. This fact will have a substantial impact on the quality of data collected from the questionnaires. It is also a missed opportunity to educate national authorities on the specific needs of the women of the community.

In recent years, policymakers and human rights actors are becoming increasingly aware of the need to investigate intersectionality amongst the LGBTI community to develop efficient policies and discourses. In this sense, it is particularly important to take into consideration the realities and the specific needs of LBQ women.

A 2023 report by Human Rights Watch found that **research and policies that do not recognise the specific needs of women of the LGBTI community contribute to the perceived “invisibility” of LBQ-specific issues**. Governments, by failing to name LBQ women in policies and legislation explicitly, have “created barriers to accessing justice, healthcare and support for LBQ victims of violence, because they are not named as rightsholders”.²

An intersectional approach is also being adopted in European and international law. For example, the EU **LGBTI Strategy 2020-2025** explicitly recognises that “LBTIQ women might

¹ <https://search.coe.int/cm?i=09000016805cf40a>

² Human Rights Watch, “This is why I became an activist. Violence Against Lesbian, Bisexual, and Queer Women and Non-Binary People”, 2023, available at <https://www.hrw.org/report/2023/02/14/why-we-became-activists/violence-against-lesbian-bisexual-and-queer-women-and-non>

experience discrimination both as women and as LGBTIQ persons³". The **Parliamentary Assembly of the Council of Europe** is developing a **Resolution on Preventing and combating violence and discrimination against LBQ women in Europe**,⁴ specifically addressing the intersectional aspects of the discrimination suffered by women of the LGBTI community.

The core of LBQ women's experience, indeed, is intersectional in the sense that they experience complex interactions,⁵ at least, between gender and sexual orientation oppression. Nonetheless, many lesbians are at the forefront of other factors of social marginalisation, such as race, religion, disability, age, ethnicity, gender identity, class, and others.

Policies and analyses that fail to take into account such framework contribute to the erasure of specific axes of oppression, where **LBQ women often fall through the cracks of policies and measures combating 'solely' gender-based inequalities or addressing 'just' discrimination against LGBTI persons**. On the contrary, it must be acknowledged that lesbophobia is a structural and pervasive form of violence that permeates norms, institutions, practices and discourses in our societies. **Lesbophobia** is a specific form of bias that **encompasses misogyny and stigma of non-heterosexual sexual orientation and gender nonconformity**. In particular, the violence and discrimination against lesbians is structured around three entrenched social norms: 1) lesbians, with their sexual orientation and gender expression refute the social expectations and stereotypes concerning 'male' and 'female' gender roles; 2) lesbians disrupt the expectations that women are at the 'disposal' of men, mainly because women's sexuality is widely objectified, and; 3) they compel society to confront widespread taboos related to female sexuality and to non-conforming sexual orientations.

For this reason, **it is crucial** to ensure that **the monitoring of the application of the Recommendation is conducted through a lens that sees, tackles and addresses the specific violence and discriminations of lesbians** amongst the larger LGBTI community and centres their voices and their lived experience.

Methodological note

This report adopts a critical and intersectional approach resulting from the combination of legal and sociological analysis. It is promoted by the EL*C - EuroCentralAsian Lesbian* Community, a pan-European network representing over 150 lesbian-focused and lead organisations. **EL*C use the term "lesbian" as inclusive of cis, trans and intersex women and non-binary persons who self-identify as lesbian, bisexual and queer**. In the following report, the terms "lesbian" and the term LBQ women (and non-binary persons) will be used interchangeably to include all non-heterosexual LGBTIQ women. We will also refer to "lesbian organisations" or "LBQ women organisations" to include all groups focused on and led by LGBTIQ women.

The data and analysis of this report come from the development of different sources.

In January 2024, EL*C started a **campaign to involve member organisations** in monitoring CM/Rec(2010)5. An online meeting was organised to explain the importance of the document and the monitoring process, offer support to local organisations with the national procedures, and involve them in drafting the EL*C shadow report.

³ https://commission.europa.eu/document/download/5100c375-87e8-40e3-85b5-1adc5f556d6d_en?filename=lgbtiq_strategy_2020-2025_en.pdf

⁴ <https://pace.coe.int/en/files/30161>

⁵ Lykke, N. (2010), *Feminist Studies. A Guide to Intersectional Theory, Methodology and Writing*, Abingdon, Oxon and New York, Routledge.

EL*C developed a **questionnaire** to be distributed amongst member organisations. The questionnaire was designed to ensure that the unique experiences and situations of LBQ women were adequately captured. It was composed of 20 questions, mirroring the structure of the questionnaire provided by the CoE Steering Committee on Anti-discrimination, Diversity and Inclusion, with several open sections added for a more qualitative approach. We received and analysed 10 questionnaires from different regions across Europe, and we conducted eight **qualitative interviews** with members of the EL*C network, in the order to examine specific issues and countries. Two **field visits** to four countries were organised to discuss with the LBQ movement about the situation in the national context.⁶ In April 2024, a **focus group** was organised in Brussels with 29 activists from lesbian organisations all over the EU, with different backgrounds and expertise.⁷ During the focus group, participants were divided into different thematic working groups and shared their insights, cases, and recommendations, which were then included into this document.

Apart from the above-mentioned data, the analysis of this report is integrated and supported by **desk research**, which includes a **critical legal analysis of relevant national and international case-law and legislations and gender/queer socio-legal scholarship**. The analysis was then completed with the abundant **material provided by the reports, documents and research that EL*C has produced** in the last years.

The report is divided into thematic areas, following the structures of the Recommendation itself. In our analysis, we focused on identifying cases of violence, discrimination and violation of human rights that are exemplary in showing the intersectional struggles faced by LBQ women. We also strive to highlight existing good practices both from institutions and grassroots organisations. To do this, **most sections present “Good practice” and “Highlight” boxes** where particularly interesting experiences, legislations, judicial decisions, and cases are analysed. Each thematic section closes with a set of **Recommendations**.

We would like to thank all the collectives, organisations, and individuals that provided their time, information, knowledge, and insights to produce this work. It was possible to create this work due to the collective contribution and reflection of lesbian organisations, movements, individuals, and scholars.

⁶ Countries covered by the questionnaires, the in-depth interview and the field visits: Armenia, Croatia, Estonia, France, Georgia, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Moldova, Serbia, Spain, Switzerland, Turkey, Ukraine, United Kingdom.

⁷ The focus group was composed by representatives of EL*C member organisations in: Austria, Belgium, Bulgaria, Croatia, Czech Republic, France, Germany, Greece, Italy, Netherlands, Poland, Portugal, Romania, Spain.

Thematic sections

I. RIGHT TO LIFE, SECURITY AND PROTECTION FROM VIOLENCE (HATE CRIMES AND HATE SPEECH)

Violence is a pervasive and structural phenomenon which, unfortunately, is very well-known to LBQ women in many areas of life. As individuals who challenge hetero-cisnormative social structures, LBQ women experience endemic and multifaceted forms of violence. According to the **2024 FRA Survey**, in the last 5 years 34% of lesbian women experienced three or more physical/sexual attacks; the percentage is slightly lower for bisexual women (26%) and higher for the trans population (39%).⁸ The collected data indicates growing numbers compared the to 2019 survey.

Good practice: Osservatorio Medus3 in Italy

In 2022, the project “Medus3” was created in **Italy**. It is a national network of individual activists, collectives, and lesbian, bisexual, trans and feminist associations engaged in monitoring and combating lesbophobia.⁹ The network created an observatory and a questionnaire, and publishes a yearly report on the analysis of the phenomenon and proposes political actions to combat it. They published reports in 2022 and 2023.¹⁰

Different organisations have reported to EL*^C the gaps or lack of national institutional systems of data collection on violence, hate crimes and hate speech against LGBTI individuals. In this discouraging situation, an intersectional approach in data collection is the only effective way of revealing the actual situation of LBQ women, but is extremely rare. In this scenario, grassroots and community-based initiatives are particularly precious. They help describe and represent the phenomenon of violence through data collection and are crucial for pushing for adequate public policy and opening a space for dialogue with institutions.

The outbreak of violence against LBQ women is happening even though an increasing number of states have approved laws on anti-LGBTI+ hate crimes.¹¹ Violence against LBQ women is a complex social phenomenon that needs to be addressed with combining strategies. Effective laws capable of addressing the intersectional nature of the phenomenon are needed. However, profound cultural changes, required to end violence against LBQ women, are possible only with the involvement and cooperation of different institutional and non-institutional actors.

Nonetheless, the rise of right-wing conservative forces and the growing institutionalisation of the so-called anti-gender movements contributes consistently to regressing the situation of women and LGBTIQ communities in many countries. Croatian lesbian organisation LORI reported that the NGO “Be Manly”, who organise regular prayers on the main squares in 13 cities in **Croatia** (the number has been increasing constantly since 2022). People meet, kneel, and pray “for men - to become spiritual authorities in the family who will bravely testify and transmit the Catholic faith”, as mentioned in their website.¹² Although under the guise of prayer, the initiative promotes

⁸ Fundamental Rights Agency of the European Union (2024), LGBTIQ at a crossroads: progress and challenges. Available at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-lgbtiq-equality_en.pdf

⁹ <https://www.retemeduse.it>

¹⁰ <https://www.retemeduse.it/wp-content/uploads/2023/11/report-lesbofobia-2023.pdf>

¹¹ According to ILGA’S Europe latest Rainbow Map, 34 countries in Europe include sexual orientation as an aggravating factor of hate crime, and 24 include gender identity. Hate speech on sexual orientation is prohibited in 34 countries and one region in Bosnia and Herzegovina. <https://www.ilga-europe.org/report/rainbow-europe-2023/>

¹² <https://www.france24.com/en/live-news/20230420-catholic-group-be-manly-sparks-culture-clash-in-croatia>

homophobia, lesbophobia, biphobia, and transphobia, misogyny in society, and advocates for the abolition of rights of LGBTI persons and women. This resulted in an increase of violence and discrimination against LGBTI persons in Croatia, as well as an increased fear among LGBTI persons for their safety and a sense of anxiety.

Since 2019, EL*C collects data in the context of the **European Observatory on Lesbophobia**, which publishes yearly reports on cases of violence reported by its membership.¹³ In the following paragraphs, different forms of violence and related issues will be analysed, such as violence in offline public spaces and online spaces, violence against visible figures, the role of institutionalised forms of hate speech and the gaps in justice systems. Most of the data presented here comes from the work of the Observatory with the aim of highlighting the more relevant information for this review.

Violence against LBQ women in public spaces and online

In the EL*C Observatory on Lesbophobia, most of the cases that are reported are often related to violence in public spaces. This might happen because violence happening in public is more likely to attract media attention and it is more easily reported by survivors, especially when it involves people unknown to them. Other forms of violence might be more challenging to report (e.g. intrafamily violence, domestic violence, intimate partner violence), or are often not perceived as “serious enough” by the media (e.g. online violence).

Public spaces are still complex environments for LBQ women to navigate due to the conflating stigma around non-conforming sexual orientation and misogyny/sexism. This is confirmed, for example, by **French data**: the **NGO SOS Homophobia** registered 134 cases of lesbophobia in France in the past year and reported that “Lesbian women are more stigmatised when they are in a relationship. Lesbophobic violence in public places concerns couples in 63% of cases”.¹⁴ In the same way, physical aggression against lesbians occurs in more than a quarter of the cases when they are in a couple.¹⁵ Another factor to be considered is gender nonconformity: LBQ women and non-binary persons' gender expression can trigger violent reactions, especially if considered “too masculine” and deviant from femininity standards. Cases of such forms of violence have been reported to EL*C in **Bulgaria, Italy, Belgium, Romania and France**.¹⁶

Lesbophobia is also rampant online. For example, the NGO Labriz reported to EL*C several cases in **Hungary** of anonymous online verbal abuse because of gender-related issues, including threats of physical and sexual violence.¹⁷ Of course, violence has a significant impact on the mental and physical health of the people involved. Still, it also implies a limitation of expression in online platforms and spaces, perpetuating lesbian invisibility and silencing their voices.

Hate crimes and hate speech against visible lesbians

According to the latest Annual Report of the EL*C Observatory on Lesbophobia,¹⁸ a widespread form of violence against LBQ women is one that targets visible activists and women in positions

¹³ A report covering cases from 2019 to 2022 was published in 2023. <https://lesbiangenius.org/observatory-lesbophobia-2019-2020/> In 2024, another report presented the data collected in 2023 <https://lesbiangenius.org/its-2024-and-lesbophobia-is-still-raging/>

¹⁴ See: <https://www.sos-homophobie.org/informer/rapport-annuel-lgbtiphobies/ra-2023>

¹⁵ See: https://ressource.sos-homophobie.org/Rapports_annuels/rapport_LGBTIphobies_2022.pdf

¹⁶ EL*C (2024): Annual report of the Observatory on lesbophobic violence and discrimination against lesbians - 2023

¹⁷ EL*C (2023), Observatory on Lesbophobia 2019-2022

¹⁸ EL*C (2024), Observatory on lesbophobic violence and discriminations against lesbians- 2023

of power. In general, women face heightened public scrutiny and frequently suffer misogynistic and sexist verbal, psychological and physical violence, both online and offline.

When this sexist attitude towards women meets gender-nonconformity and non-heterosexual sexual orientation, the risk of experiencing online hate speech, harassment, media-driven violence and attacks increases significantly. The targeting of visible LBQ women, including journalists, politicians, and human rights defenders, through continuous and organised hate crimes and hate speech, is not only an efficient way to spread hateful rhetoric but also a deliberate strategy to silence these voices. One of the most damaging repercussions of such violence is the fact that they have a deterrent effect on other women considering entering public life or activism. For this reason, these attacks are often associated and followed with other forms of censorship, which will be discussed in the following section.

Data that confirms this trend has been reported to EL*C Observatory from **Spain, Bulgaria, France, Hungary, Ukraine, Georgia, Germany, Moldova, Italy and Albania**.¹⁹ A UNESCO's report on violence against women journalists online, found that journalists who identify as lesbian and bisexual experience some of the highest rates of violence. According to the report, this is connected to the intersecting stigma between sexual orientation, sexism and misogyny that "worse(n) women journalists experience of online violence."²⁰

Institutionalised lesbophobia: politicians and the legitimisation of hate

On the European level we witness an increased legal interest towards hate crimes and hate speech, but we also register a growing anti-human rights narrative in the political environment. In the **2024 FRA Survey**, it is possible to observe that the trust amongst LGBTI people on the capability of their government to effectively combat prejudice and intolerance against them is decreasing (from 30% in 2019 to 25% in 2023). This is particularly relevant for trans persons and lesbian women who participated in the survey, compared to the responses of gay men (33% of gay men said they think that the government of the country they live in effectively combats prejudice and intolerance against LGBTIQ people, compared to 19% of trans persons and 22% of lesbian women).²¹

Negative rhetoric toward LGBTI persons was initially promoted by so-called anti-gender forces and movements. However, with the growing influence of the far-right across Europe, it has now become a widespread institutional discourse that has serious and direct consequences on the everyday lives of LBQ women. In **Moldova**, the Ombudsman, Ceslav Panico, published a statement expressing concern about the hate speech and prejudice of some deputies in Parliament towards the LGBTQ+ community.²² The EU and the Council of Europe have often drawn attention to the worrisome situation in many countries, such as the ones that adopted the so-called "anti-LGBT propaganda laws" (see section II).

Even though many countries have laws and sanctions against hate speech, such legal instruments fail when confronted with such situations. It is being reported that hate speech by

¹⁹ More details available in EL*C (2024), Observatory on lesbophobic violence and discriminations against lesbians-2023

²⁰ UNESCO (2020), Online violence against women journalists: a global snapshot of incidence and impacts, <https://unesdoc.unesco.org/ark:/48223/pf0000375136>

²¹ Fundamental Rights Agency of the European Union (2024), LGBTIQ at a crossroads: progress and challenges. Available at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2024-lgbtiq-equality_en.pdf

²² <https://ombudsman.md/avocatul-poporului-ceslav-panico-este-ingrijorat-de-discursurile-de-ura-si-prejudecata-manifestate-de-unii-politicieni-fata-de-comunitatea-lgbtq-din-republica-moldova-si-indeamna-la-respectarea-drep/>

politicians often remains unpunished. For example, **Georgia** criminalised homophobic, lesbophobic, biphobic, and transphobic hate speech in 2015, but EL*C members report that there have been no prosecutions to date, despite the high number of hate speech perpetuated mostly by politicians and religious leaders. For example, a member of the Georgian Parliament, Andreas Themistocleous, was reported for his continuous anti-LGBT, sexist and racist statements, but the House of Committee on Ethics dismissed the case.²³

It is also interesting to note how political anti-LGBT rhetoric is often tied to pro-family and nationalist views and claims. A good example of this is the declaration of the Italian Family Minister Eugenia Roccella, a member of the ultra-right government, on the matters related to legal actions against lesbian mothers in **Italy** (see section of Family) in 2023. According to Roccella, it is legitimate for the Italian law on in vitro fertilisation to exclude some categories of potential beneficiaries (such as single women or lesbian couples) to enforce “natural filiation”: "I do not question love. That is not the point. We must decide whether the environmentalism that everyone invokes is only valid for plants and animals or whether there can also be a 'human ecology', so often called for by Pope Francis".²⁴

Moreover, there is a symbolic meaning embedded in institutional lesbophobic, biphobic, and transphobic discourse that somehow spreads a sense of legitimacy, acceptance and impunity of similar actions and words. This rhetoric, coupled with threatening acts, encourages governments, institutions, and private persons to further discriminate. It has been shown how online and offline hate speech mutually reinforce each other in a never-ending violent cycle. For example, the Italian Project “Vox. Osservatorio Italiano sui Diritti” which monitors hate speech on the “X” platform (formerly “Twitter”), in its 7th edition (2022) showed how homophobic, lesbophobic, biphobic, and transphobic content increased as a result of homophobic offline incidents, or how misogynistic content increased immediately after the election of Giorgia Meloni as the first woman elected as prime minister, but leading a far-right coalition government in **Italy**.²⁵

A transversal issue: access to justice in a sexist and heteronormative system

As previously mentioned, the commonality between each country, despite different legal systems and laws (e.g. presence of provisions and sanctions on hate crimes and hate speech), is the alleged difficulty for LBQ women to access justice. In a **2022 survey for EL*C members at the EL*C Observatory on Lesbophobia**, one in three respondents considered that the legal systems in their countries made it impossible to prosecute hate crimes, whilst almost 40% of them considered the investigation and/or prosecution process to be biased (e.g. because complaints are not taken seriously, or investigations are biased).

The reasons behind this failure of the legal system are numerous, complex and multifaceted. While legislative gaps regarding aggravating circumstances are an important challenge, having laws in place is not enough to ensure effective prosecution. The investigation process itself may still fail to properly identify the nature of the crime. In **Armenia** in July 2022, the new version of the Criminal Code entered into force, and it provides a non-exhaustive list of protected grounds in the provisions of aggravating circumstances. Despite this, Pink Armenia report that in the last two years almost no case have been adequately recognised under these new provisions. In some cases, police officers might be able to identify the motivations of the perpetrator, however they do not report these cases as hate crimes and do not undertake specific measures to provide

²³ ILGA Europe Rainbow map, 2024: <https://rainbowmap.ilga-europe.org/categories/hate-crime-hate-speech>

²⁴ <https://www.agenzianova.com/news/roccella-in-italia-non-si-diventa-genitori-per-contratto/>

²⁵ <http://www.voxdiritti.it/la-nuova-mappa-dellintolleranza-7/>

adequate support to the victims. In 2023, for example, Pink Armenia reported that a transgender woman was killed in her apartment, but the investigator did not deem the crime as hate motivated. The investigator's decision was appealed before the court and the court upheld the appeal, meaning the issue will be re-examined.

On the international level, for example in 2021, **the European Court of Human Rights** in the case of **Sabalić v. Croatia** found a violation of art. 3 (prohibition of inhuman and degrading treatment) and art. 14 (prohibition of discrimination) of the European Convention of Human Rights by Croatian authorities. According to the Court, the institutions failed in adequately responding to a lesbophobic attack against a woman who was violently assaulted after having refused the advances of a man and disclosed to him that she was a lesbian. The Court also found that the definition of the crime as a minor offence and the minimum sanction associated with it, showed that the hate crime element and lesbophobic nature of the offence was not appropriately considered by Croatian authorities.

Another point to be considered is related to mistrust in institutions such as police officers and judges. The **EL*C Observatory on Lesbophobia** reports highlight that lesbians have some of the lowest reporting rates within the LGBTI community. In 2022, 55% of respondents reported the real risk of encountering lesbophobia by police officers/judges, while 45% considered that there was a concrete risk of claims not being believed and the identity of the victim being questioned.²⁶ There is in fact a widespread lack of training for police officers, judges and other public figures to adopt a gender-sensitive and LGBTI aware perspective in their work.

In **France**, the government's "new plan against anti-LGBT+ hatred"²⁷ (2023-2026) establishes training for police officers and gendarmes on issues of inclusion and the fight against LGBTphobic acts; it has been criticised by local associations because of a lack of gender perspective.²⁸ The French police is being called out by activists for being racist, sexist, and homophobic, lesbophobic, biphobic, and transphobic. This is shown for example by the Vanessa Campos case, a trans woman sex worker shot in Paris in 2018. It has been discussed how the murder could have been avoided, because the police had received repeated calls concerning her being subject to violent attacks. Activists claimed that calls for help from trans people are regularly ignored by the police, who often consider them as sources of public disorder rather than as potential victims.²⁹

Highlight: ECtHR, J.L. v. Italy

In a 2021 decision, the **European Court of Human Rights**³⁰ addressed the issue of victim-blaming and secondary victimisation of survivors of sexual violence perpetuated by national courts during criminal proceedings. The case was presented by JL, a young woman living in Italy that was sexually assaulted in 2008 by 7 men. The men were initially found guilty, but the **Florence Court of Appeal** acquitted them in 2015. The **Corte di Cassazione** later upheld this acquittal. According to the ECtHR, the Italian authorities failed in protecting the applicant's right to private life and personal integrity during the criminal proceedings. The Court deemed that 'the comments in the reasoning of the appeals judgment were guilt-inducing, moralising and conveyed sexist stereotypes'. In the words of Italian judges, the credibility of the applicant and

²⁶ EL*C (2023), Observatory on Lesbophobia 2019-2022

²⁷ <https://www.info.gouv.fr/actualite/un-plan-national-pour-legalite-contre-la-haine-et-les-discriminations-anti-lgbt>

²⁸ <https://seronet.info/article/lgbt-un-plan-en-manques-96168>

²⁹ <https://www.vice.com/fr/article/n7w7n7/pourquoi-la-communaute-lgbti-doit-se-remobiliser-contre-les-violences-policieres>

³⁰ European Court of Human Rights, 5671/16

criminal liability of the defendants were examined by considering JL's previous relationships, her sexual orientation, and her clothing choices. The judgement mentioned the applicant's 'ambivalent attitude towards sex': the fact that she was a bisexual woman, having casual sexual relations with both genders, made her a less credible victim.

What is interesting about this decision is the recognition that judicial stereotypes and bias are significant barriers to justice for survivors of violence. States have a positive obligation to contrast such practices. Additionally, the Court recognised that in this specific case the Italian judges failed in granting protection to the applicant because of a specific combination of sexist, misogynistic and biphobic prejudices and a consequent scrutiny of her sexual life.

Recommendations

- I. Ensure the systematic collection and monitoring of data on violence, hate crimes, and hate speech against LGBTIQ+ people, with data disaggregated by SOGIESC as well as other factors of social marginalisation such as gender, race, disability, religion, age, socio-economic status and others.
- II. Fund and support research focused on the experiences of LBQ women, particularly in relation to hate crimes, hate speech, gender-based violence and access to justice, and engage academic institutions in conducting studies that contribute to evidence-based policymaking and public discourse.
- III. Ensure the reinforcement of international legal protections against hate crimes, gender-based violence and hate speech targeting LBQ women, by ratifying and implementing relevant treaties (CEDAW, Istanbul Convention etc.), and promoting cross-border cooperation to address these issues on a global scale.
- IV. Ensure that laws explicitly protect individuals from gender-based violence, hate crimes, and hate speech, and recognise lesbophobia, biphobia, and transmisogyny as aggravating circumstances in such crimes to enhance the legal response and accountability.
- V. Ensure that police officers, criminal prosecutors, judges, and other public officers receive comprehensive training to recognise gender and SOGIESC factors in violence and crimes, and regularly monitor the impact of such trainings to assess whether it has led to improved outcomes for victims of hate crimes.
- VI. Make sure police officers, criminal prosecutors, judges, and other public officers that perpetuate misogynistic, sexist, lesbophobic, biphobic, and transphobic attitude when dealing with survivors of hate crimes and gender-based violence are appropriately and proportionately sanctioned.
- VII. Promote the adoption of respectful and non-offensive language for media reporting in relation to cases of violence, hate crimes and hate speech, by implementing guidelines and offering training to media professionals to reduce harmful stereotypes and bias.
- VIII. Promote the adoption of code of conducts prohibiting and sanctioning hate speech in institutional settings such as Parliaments, local Councils and other public entities.
- IX. Initiate and maintain a dialogue between public authorities and social media platforms to ensure that content moderation policies effectively protect LBQ communities from hate speech and harassment while safeguarding their right to self-expression.
- X. Ensure the expansion and enhancement of support services for victims of gender-based violence, hate crimes and hate speech, including access to legal aid, psychological support, and safe housing, with a focus on making these services accessible to all LBQ women, particularly those from marginalised communities.

II. FREEDOM OF ASSOCIATION AND FREEDOM OF EXPRESSION AND PEACEFULL ASSEMBLY

The issues of freedom of association, freedom of expression and peacefully assembly are essential for LBQ women because they ensure the possibility of being visible and acting in society and pushing for social changes. These issues are crucial in order to grant political agency to the lesbian movements both as women and as part of the LGBTI community. Nonetheless, as the following paragraph will explain, the lesbian movements face several obstacles in terms of funding and institutional forms of erasure and violence.

Recognition and space of action for lesbian organisations and activists

The restriction of the freedom of association for lesbian NGOs takes on different shapes. An example could be what happened in **Greece** with Athens Museum of Queer Arts (AMOQA): a project born in 2016 with the financial help from a five-month German scholarship. In October 2016, the City Court of Athens rejected AMOQA's request to set up an association (application number 323/2016). The rejection was based on the suspicion by the District Court that AMOQA aimed to "spread homosexuality" and that the proposed association had "hidden commercial purposes".³¹

It is even more common that lesbian realities and organisations face difficulties in sustaining their actions and activity due to a lack of funding as an indirect restriction to their freedom of association. According to **a survey conducted by EL*C in 2021** amongst its member organisations,³² almost half of them (45%) work without any kind of funding, while one third (35%) rely merely on support and money from members and local communities. Only 26% of the organisations manage to get funding from local, regional, or municipal authorities, and 13% receive money from private foundations. Only 10% of the funds came from foreign governments and international funding mechanisms (e.g. European Commission, UN, EEA/Norway grants, etc), and only 7% from national governments.³³

Public institutions are not supporting LBQ movements in their own countries, either because there are no specific initiatives, or because they do not include a gender/sexual orientation/gender identity perspective in their calls. In this ongoing lack of funding, it is particularly concerning that, as reported by some of EL*C members, national funds intended for gender equality initiatives are instead being allocated to anti-feminist and anti-trans organisations to advance their agendas.

Highlight: Croatia and the funding for promoting gender equality

In **Croatia**, according to national NGOs, feminist and LGBTI organisations working in the field of human rights have very limited access to national grants. In 2023, The Council for Electronic Media, whose president is appointed by the Croatian Parliament, awarded funds from the Fund

³¹ <http://amoqa.net/post/155778956361/to-amoqa-θα-συνεχίσει-να-διαδίδει-την> and <https://medium.com/athenslivegr/spreading-homosexuality-is-not-allowed-by-the-district-court-in-athens-e8c6b2a77a4c>

³² EL*C (2021): Resistance as a Way of Living: Lesbian lives through the COVID-19 Pandemic

³³ This data is in line with evidence that show how the lesbian movement is one of the most underfunded movements globally, but especially in Europe and Central Asia. Research conducted in 2019 by the private foundations Astraea and MamaCash shows that LBQ (lesbian, bisexual, and queer) groups in Europe and Central Asia have the smallest median annual budgets, at \$5,000. Nearly half (43%) of LBQ groups in Eastern Europe and Central Asia operate on even less than \$5,000 annually, and in Western Europe, over half (53%) work with less than \$5,000 per year. This is the lowest median annual budget globally.

for Encouraging Pluralism and Diversity of Electronic Media through a public tender. The conservative organisation “In the name of the family” received funds from this grant. The association requested and received HRK 26,000, (EUR 3,450) to encourage awareness of gender equality with their project 'Epidemic of transsexualism in Croatia and the world'.³⁴

Limitations to freedom of expression are also reported in online spaces. Lesbian organisations, activities, or events that use the term 'lesbian' or other self-identifying language from the lesbian community are often shadow banned and censored by social media platforms and search engine algorithms. This happens because the word “lesbian”, in several EU languages, is often censored in online search engines and social media for being associated with pornographic content.³⁵ the EL*C team directly experienced this in 2019, while trying to set up a username on Facebook that it was impossible to register an account with the word lesbian in it. The issue was solved only after several months and back and forth contact with the social media platform. Several EL*C members reported that similar issues are encountered with email service providers, shadow banning content for using words like dyke or lesbian, and the minimisation of positive results in search engines.

Activism between the need for institutional protection and institutional violence

The issue of possible restrictions and safety during LGBTI protests and events is very different amongst different countries in Europe. What is possible to observe is a general tension between LGBTI people, movements, and organisations and law enforcement, differently declined country by country.

For example, LBQ organisations in **Italy** and **Germany** report the massive use of police forces during feminist and/or LGBTI marches and protests. Activists in both countries report that it is quite a common practice for law enforcement to intervene in the protest routes, usually relegating demonstrations outside of the main urban areas. This effectively restricts the right to assembly by reducing the impact and visibility of actions by LBQ women and non-binary people. A similar obstructive conduct can be found in a case reported in **France** in 2023, during the protests concerning the reform of the French retirement system and where several known LBQ activists had a prominent role. BonJour Madame, a queer feminist bar in Paris, saw the intervention of around 22 police officers with bulletproof vests to carry out an anti-fraud check. As a result of this inspection, the bar was closed for two weeks because of irregularities in a license, however the intervention was deemed disproportionate by the managers and customers, who saw it as a form of intimidation by police forces.³⁶

In **Serbia**, where the EuroPride in 2022 was hosted in Belgrade, safety was a major concern. The EuroPride was organised in a climate of pressure and threats by anti-gender movements. EuroPride organisers were told that the police were not capable of granting the safety of attendees, and EuroPride organisers were forced to pay for private security. The government initially denied the authorisation of the march, to then regrant it with a shortened route. Many activists experienced verbal and psychological abuse during and after the march, and several lesbian activists who attended the march were violently attacked right after it.³⁷

³⁴ <https://www.24sata.hr/news/dodjela-javnog-novca-udruzi-u-ime-obitelji-dali-3450-eura-za-promicanje-ravnopravnosti-896618>

³⁵ EL*C (2023): Observatory on Lesbophobia 2019-2022.

³⁶ <https://www.nouvelobs.com/societe/20230526.OBS73825/que-s-est-il-passe-au-bonjour-madame-bar-queer-et-feministe-a-paris-ferme-apres-un-controle-de-police.html#>

³⁷ EL*C (2024), Observatory on lesbophobic violence and discriminations against lesbians- 2023

In other countries, such as **Turkey**, police enforced the anti-democratic choices of local government and national authorities. For example, since 2016, the Governor of Ankara has banned Pride marches. In May 2024, 10 activists who wanted to read a press statement on the occasion of Pride Month in Eskişehir were detained and tortured. The issue of freedom of assembly and expression and Turkish repression will be brought to the European Court of Human Rights.³⁸

Freedom of expression and association of lesbians in the time of “LGBT propaganda” laws

The aforementioned scenario is complicated by the growing discussion and approval of national laws opposing so called “LGBT Propaganda”. The first known example was Russia's 2013 law, which claimed to protect children from information that ‘advocates for a denial of traditional family values’.

In 2021, **Hungary** approved Act LXXIX of 2021, which imposes limitations on products for children that display or promote “deviation from one's birth gender identity, gender reassignment or homosexuality”. Such limitations include the fact that these products need to be sold separately, cannot be placed in store windows and cannot be sold near schools, churches and other places of worships. The law also restricts LGBT representation in the media and declares that only individuals and organisations listed in an official register can provide sexual education in schools.

In **Georgia**, in a context characterised by extreme political volatility, the parliament has introduced a cascade of laws targeting civil society organisations and the LGBTI community since March 2024. The ruling party started their pre-election campaign by introducing a constitutional law banning LGBT propaganda and, in May 2024, the “Foreign agent law” was finally approved. Following the mass protests against this law, unidentified aggressive groups put up posters at the entrances of the offices and apartments of NGO heads, as well as stencilling humiliating content. Such attacks appear to be coordinated and organised and happen with total impunity. Activists and representatives of organisations also received a series of threatening phone calls from numbers registered abroad. In addition, there were a number of cases where these aggressive groups physically attacked activists and opposition leaders. WISG (Women Initiatives supporting group) and key staff members of the organisation were personally targeted during this period. In October 2024, the country will have elections, and the ruling party also initiated a package of laws aimed at the prohibition of so-called “LGBTI propaganda”, targeting a wide range of rights from freedom of speech, media and education, to legal gender recognition and health rights, to be adopted by September 2024.

It is important to note that despite the declared aim of these legislation (often linked with the protection of children and youth - see the section on Education), the real impact is to deny any form of political agency in the public space to LGBTI people and groups. The agenda behind such legislative initiatives is connected to the enforcement of traditional patriarchal values in family and society, deeply rooted in a rigid understanding of gender roles, with dangerous effects not only for the LGBTI community members. but also for women and gender equality in general. As a

³⁸ See for example the cases promoted by KAOS GL: Application kaos gl * 2016/11193 , Kaos Gey ve Lezbiyen Kültürel Araştırmalar ve Dayanışma (Kaos GL) Derneği v. Türkiye - on freedom of expression, assembly and other relevant articles; following the Ankara Governorship banning of IDAHOBIT parade in Ankara in 2016; Application n. 5797/22 Kaos Gey ve Lezbiyen Kültürel Araştırmalar ve Dayanışma (Kaos GL) Derneği v. Türkiye - freedom of assembly, expression and other relevant articles; following a case dismissal by Consitutional Court on the case of Ankara Governorship general ban on LGBTI+ activities and gatherings within the larger provincial area in 2017

result, LBQ women and non-binary persons often find themselves at the forefront of resistance against these regressive agendas.

Recommendations

- I. Ensure that feminist and LBQ organisations face no legal barriers to registration or recognition of their activities.
- II. Allocate specific public funding to support LBQ organisations' work and initiatives.
- III. Implement independent oversight bodies and clear legal frameworks to hold police officers accountable for abuse against protesters or while performing their duties during public demonstrations and actions.
- IV. Advocate for and support international mobilisation efforts against illiberal and anti-LGBTQ+ legislation, including via diplomatic pressure and strategic alliances.
- V. Encourage and support legal advocacy efforts, including strategic litigation, to challenge discriminatory laws and practices that restrict the rights of LBQ individuals and organisations.
- VI. Provide legal assistance and resources to LBQ communities to help them navigate legal challenges and defend their rights.
- VII. Develop and implement enhanced protection measures for LBQ activists, particularly those facing threats or violence due to their work. This could include providing safe spaces, legal support, and emergency response plans in collaboration with international human rights organisations.

III. RESPECT FOR PRIVATE AND FAMILY LIFE

Private and family life is an area where LBQ women struggle to fully and effectively exercise their fundamental rights.

Family, as an institution, represents the first domain of the patriarchal oppression of women and LGBTI persons. Because LBQ women and non-binary persons are at the intersection of multiple forms of discrimination, they face unique and specific forms of violence in this area. LBQ women and non-binary people, with their form of kinship, are challenging the heterosexist nature of family, and this is often accompanied by a strong backlash from politics, institutions, and society at large. Many legal systems are struggling to embrace a dynamic and plural notion of family, and this will clearly emerge in the following paragraphs.

The lack of institutional recognition/support, common to all non-heterosexual families, is further exacerbated by the structural invisibility and social marginalisation of lesbian relationships, where the negative impact is especially felt in cases where protection, care and recognition of families is particularly important (e.g. in cases of lack of recognition of the partner as next-of-kin by healthcare providers).

When it comes to parenthood, the lack of mainstream and positive models of lesbian motherhood,³⁹ for example, can weigh on those deciding whether to start a family, even in countries that allow access to reproductive technologies and adoption. Such countries are still a minority in Europe.⁴⁰ In this context, lesbian couples face several social, legal, institutional, and administrative barriers that are largely unknown to heterosexual couples, including conflicting legislation, prohibition, expensive travel, and heteronormative and discriminatory attitudes from service providers.⁴¹

Highlight: Adoption for same-gender couples in Croatia

With a historic decision in May 2022, the **Croatian High Administrative Court** ruled in favour of same-sex couples' adoptions, in compliance with the principle of non-discrimination. The Court claimed that restricting adoption only to married couples entails a different treatment based on sexual orientation, and, therefore, is discriminatory against life partners.⁴² The decision was adopted in opposition to the government's position on the issue, as the Court rejected the appeal from the Ministry of Labour, Pension System, Family and Social Policies, who also opposed a pro-adoption decision made by Zagreb's Administrative Court in April 2021. At the same time in Croatia, conservative groups are still spreading hate against queer families. For example, in March 2023, an EL*C member reported that the **County Court in Zagreb** ruled that the Vigilare association harassed, discriminated, incited discrimination against LGBTIQ persons and their families with the petition called "Protect children from homo adoption".

The lack of legal acknowledgement and protection of these families generates an intrinsic fragility of lesbian kinships: as their acknowledgement and often capability of facing everyday life

³⁹ G. Selmi, M Franchi (2020). Becoming lesbian mothers in contemporary Italy: The challenge of social and legal constraints, GENDER Sonderheft 5 | 2020, S. 139–153

⁴⁰ According to ILGA's Europe Rainbow Map, only 17 countries in Europe provide the possibility to every couple regardless of gender identity and sexual orientation to access reproductive technologies, while only 22 allow same-gender couples to access adoption. <https://www.ilga-europe.org/report/rainbow-europe-2023/>

⁴¹ EL*C (2022), A bitter pill to swallow. GAPS AND DISCRIMINATIONS IN HEALTHCARE FOR LESBIANS

⁴² https://www.euractiv.com/section/politics/short_news/croatia-court-gives-final-nod-to-adoption-by-same-sex-couples/

challenges depend on the discretion and goodwill of the people they interact with, in societies where lesbophobic attitudes and bias are still very widespread.

Struggles in accessing reproductive technologies

As mentioned previously, countries that provide the possibility for lesbian, trans and non-binary people to have access to in vitro fertilisation (IVF) remain few and far between. Still, even amongst these realities, there are often issues related to a lack of effectiveness and access, as pointed out by many activists during the focus group and interviews. This is related to different issues, such as the cost of the coverage of the treatment, presence of discrimination and bias against lesbian couples from medical practitioners, and a lack of training of civil registry personnel in relation to same-gender parenthood and the related administrative procedures.

In the UK, activists report lack of access to equitable NHS fertility funding, an aspect that penalises lower-incomes couples. In France, activists of colour denounced the difficulties for lesbians of colour to access fertility treatment, compared to white couples.

Good practice: Spain and access to IVF in the National Health system

Since 2006 in **Spain**, women, regardless of their sexual orientation and civil/marital status, are entitled to have access to IVF. In 2014 however, the conservative Popular Party government limited public healthcare access to IVF to only cover heterosexual women who had a partner, forcing others to pay for private treatments. For this reason, in 2021 the socialist-led Government passed an act,⁴³ in order to revise the criteria for publicly funded IVF that resulted in granting free access to medically assisted reproduction for single women, as well as lesbians, bisexuals, and trans people in Spain's public health system. At the time, the Minister for Health Carolina Darias signed the order during a ceremony attended by activists, affirming that the day marked a “restitution of rights- rights that never should have been denied”.⁴⁴

Micro aggressions, assumptions, unconscious bias and general discrimination relating to LBQ mothers/parents is experienced throughout the journey, from access to reproductive services, during pregnancy, and neonatal care in countries such as the **UK, France, and Portugal**. This is particularly true in the cases of countries that have only recently approved laws on this matter, such as **France**, and did not supplement them with training and informative measures for healthcare personnel. In **Portugal**, a survey of health practitioners identified heterosexist attitudes on issues such as same-sex marriage and reproduction, and a lack of professional knowledge in dealing with non-heterosexual women.⁴⁵

Several activists also report the need for the legal system to address the issue of home insemination, which is a common practice (especially in countries that only provide the option of sperm donor's anonymity, and because of economic reasons). This still represents a grey area where both the parents and the children are exposed to possible discrimination.

⁴³ https://www.boe.es/diario_boe/txt.php?id=BOE-A-2021-18287

⁴⁴ www.euronews.com/2021/02/11/2021-spain-extends-free-ivf-treatment-to-single-women-and-lgbt-community

⁴⁵ J.M. De Oliveira, M.J. Almeida, C. Nogueira,. Exploring medical personnel's discourses on the sexual health of lesbian and bisexual women in greater Lisbon, Portugal. Rev Colomb Psicol. 2014;23:297–309

Institutional violence against lesbian families

As pointed out above, many countries simply do not allow single persons or non-heterosexual/lesbian couples to access Assisted Reproductive Technologies (ART), which creates many other difficulties and obstacles in the wish to create a family. As reported during the focus group, lesbian couples often have to circumvent legal constraints to pursue their desire to start a family. As a result, they struggle to find the limited information available on how to navigate these challenges. Additionally, they face the tension of being discriminated against in their own countries, while also feeling exploited by foreign private clinics that capitalise on their exclusion from local services.

During the focus group, participants pointed out that by accessing ARTs abroad, the experience of discrimination of LBQ women is further amplified by other dimensions, such as class and socio-economic status. Having the economic resources to support the project is key since there is the need to pay for travel abroad, for the service itself, for accommodation, as well as for the legal assistance needed after. It is very much evident that for lesbian (potential) mothers, class matters.

In the lack of institutional recognition, protection and support, class and gender also play an important role in the subsequential phases of maternity/parenthood. The lack of parental leave for both mothers, the high rates of unemployment and the lower incomes of LBQ women, together with the difficulties in accessing public services represent an added layer of vulnerability for these families. In **Italy**, for example, a couple reported to EL*C member Associazione Te@ that they had experienced substantial obstacles: after giving birth in a foreign country, they experienced administrative issues with the birth certificate of the baby in Rovereto municipality, back home in Italy. As a result, it was impossible for the child to have access to public nursery school, and as the family could not afford a private school, the mother with a lower income (but stable job) decided to quit to take care of the baby.

This happens because one of the most important issues for LBQ women and non-binary persons accessing ART abroad is the status of the family in the origin country: both in the recognition of non-gestational mother/parent and the protection of the children's rights. The "Baby Sara case" in **Bulgaria** and the Italian case detailed below are emblematic of the obstacles faced by these families and the ideological lesbophobic positions assumed by national governments. In the "Baby Sara" case, the Bulgarian Administrative Court (SAC) refused to issue a birth certificate to a child born in Spain of two mothers (one having a Bulgarian citizenship), leaving the baby stateless and trapped in a legal limbo.⁴⁶ The case reached the European Union Court of Justice: in the case "Stolichna obshtina, rayon Pancharevo"⁴⁷ it was ruled that the baby's fundamental rights and freedom of movement were being violated by the deprivation of the relationship with one of her parents. This decision was supposed to force Bulgarian authorities to issue a birth certificate for baby Sara, but in March 2023 the Bulgarian Court refused to recognise the child's Bulgarian citizenship, since she had no biological link to the Bulgarian citizen.⁴⁸

Highlight: The case of Milan and Padua, institutional violence against lesbian mothers in Italy

⁴⁶ D. de Groot, Legal protection for rainbow families exercising free movement: The 'Baby Sara' case, EPRS | European Parliamentary Research Service, PE 739.207 – November 2022

⁴⁷ C-490/20: V.M.A. v Stolichna obshtina, rayon 'Pancharevo

⁴⁸ <https://www.euractiv.com/section/politics/news/bulgaria-denies-citizenship-to-spanish-born-child-with-two-mothers/>

Italy regulated the recognition of same-gender couples in 2016 with the approval of law 76/2016 on civil partnership. The law provides no recognition of rights in the field of parenthood, however from consolidated national case-law it is possible to obtain second-parent adoption by jurisdictional means, which is a long, psychological demanding (social services are involved) and expensive procedure.

Since 2016, however, many local mayors responsible for local civil registration have decided to challenge the law and issued Italian birth certificates with two same-gender parents, mostly for babies born abroad, according to private international law rules. This praxis was considered legitimate by the **Corte di Cassazione** in cases of babies born through IVF to lesbian mothers.⁴⁹ In January 2023, the Ministry of Interior published an order (a “circolare”) asking local administration to apply the Corte di Cassazione doctrine on surrogacy to all same-gender partners and for local civil registries to stop issuing birth certificates to their children.⁵⁰ From a legal point of view, the judgement referred to by the Ministry concerned the future cases of children born with surrogacy only, because of the alleged contradiction between the practice of surrogacy and domestic public order, but did not concern children born through IVF and did not apply retroactively.

Nonetheless, a few months later, State prosecutors in northern Italy, in the application of the above-mentioned Interior Ministry “circolare”, ordered the cancellation and re-issuance of birth certificates of several children with two mothers.⁵¹ Non-gestational mothers received letters informing them that they were going to be retroactively removed from their children’s birth certificate. In the city of Padua, the request of the state prosecutor was challenged in front of the **Tribunale di Padova**, who decided in March 2024 in favour of the 37 children and their right to retain their legal relationship with both mothers.⁵² This decision was appealed by the Government. A similar situation in Milan was decided in favour of the mothers in front of the **Tribunale di Milano**, but then the removal of non-gestational mothers was subsequently considered legitimate and ordered by the **Court of Appeal**.

Lesbian families and in particular non-gestational mothers, facing conflict within their relationship, are even more at risk, as a case discussed in front of the **Italian Constitutional Court** shows.⁵³ The Italian case concerned the situation of a non-gestational mother who was not allowed by her former partner to see her children after their separation. Without the consent of the legally recognised mother, it became impossible for her to ask for second-parent adoption, the only form of protection for same-sex families available in Italy. As a result of this situation, she was simply left without any parental rights and the children were completely deprived of contact with the second parent. According to the decision, this situation constitutes a serious threat to the fundamental rights of the child and the parent involved. Nonetheless, the Constitutional Court decided not to intervene but launched a call to action for the Parliament to take on similar issues urgently. Similar situations can also arise in case of the death of the legally recognised mother: following such events, the second parent is left with no legal rights and the child with no protection, especially in the case of lesbophobic relatives.

⁴⁹ Decisions of the Corte di Cassazione n. 19599/2016 and n. 4382/2018

⁵⁰ <https://dait.interno.gov.it/documenti/circ-dait-003-servdemo-19-01-2023.pdf>

⁵¹ <https://www.agi.it/cronaca/news/2023-06-19/procura-padova-rettifica-atto-nascita-bimba-coppia-gay-21901860/>

⁵²

https://www.repubblica.it/cronaca/2024/03/05/news/padova_confermati_atti_di_nascita_dei_bimbi_con_due_mamme-422255584/#:~:text=Cronaca-.,Padova%2C%20i%2035%20bambini%20con%20due%20mamme%20riavranno%20il%20loro,procura%20contro%20le%20coppie%20lesbiche&text=Le%20mamme%20restano%20mamme.,hanno%20vinto%20il%20primo%20rou

⁵³ Decision of the Corte Costituzione, n. 32/2021

Recommendations

- I. Ensure universal, safe, and equitable access to ARTs for LBQ women, trans and non-binary people, with public funding.
- II. Implement accessible, non-discriminatory, and transparent adoption procedures for LBQ women, trans and non-binary people, ensuring that the process is timely and fair.
- III. Establish clear legal standards for the recognition and protection of non-gestational parents/mothers, ensuring their rights are automatically recognised at birth and protected in cases of separation, death of the gestational parent, or discrimination.
- IV. Ensure the best-interests of the child and the protection of their family life prevails over prejudices and stereotypes against non-heterocisnormative families.
- V. Create and disseminate public campaigns for a positive representation of lesbian motherhood/parenthood and non-heterosexual families.
- VI. Implement mandatory, ongoing training programs for healthcare personnel, civil service officers, social services, and educational institutions to address prejudices and unconscious bias against LGBTI people and families, with regular evaluations to measure effectiveness.
- VII. Ensure that all public services are fully inclusive and welcoming of all forms of family, with oversight mechanisms in place to ensure compliance and address any instances of discrimination.
- VIII. Develop comprehensive legal frameworks to regulate home insemination and donor arrangements, ensuring the protection of all parties involved, and with a focus on the best interests of the child.

IV. EMPLOYMENT

Lesbians in the workplace are at the intersection of several forms of discrimination based on their gender, sexual orientation, gender-nonconforming appearance (especially ones perceived as masculine), motherhood/parenthood, fatphobia, race, disability and many others.

When it comes to EU countries, LBQ women are protected by EU law from discrimination based on gender or sexual orientation in the workplace. However, most of the discrimination LBQ women experience is subtle and related to organisational culture, and for this reason they fall outside the legal framework. The workplace contributes to reinforcing certain femininity norms, in the belief that women should look and behave in specific ways to be “professional”. Masculine lesbians face discrimination during job interviews on a regular basis: “It comes in the form of comments that imply all lesbians are ugly and badly dressed, the “quips” from co-workers who use the word “lesbian” as if it were an insult (..) One lesbian (...) told of a female colleague who told her: You know, sometimes I can't tell if you're a man or a woman, it would be nice if you wore a dress or a skirt sometimes.”⁵⁴

Ideologically oriented organisations/employers and discrimination against lesbians

In some countries the discrimination in employment against LBQ women happens in working context that are characterised by a religious element. For example, during the focus group, it emerged how in many cases, social services in Germany are provided often by religious organisations, which might not always be welcoming for LGBTI people. The fact that religious employers are common in sectors that are feminised (education, social services, health, care for people with disabilities⁵⁵ and older people) brings out a disproportionate impact that this situation generates on LBQ women and non-binary persons. The field of education, also strongly feminised especially when it comes to the teaching of younger children, is particularly relevant when it comes to LGBTI discrimination in employment, and particularly LBQ women. LGBTI educators and teachers are still seen with suspicion in educational contexts, building on the prejudice that an LGBTI teacher might badly influence young people.

Highlight: The case of discrimination in a Catholic school in Italy

In 2014 in **Italy**, an art teacher who worked in a religious school directed by nuns, in Trento, was not re-appointed due to her presumed sexual orientation. Before the beginning of the new school year the teacher was called in by the school's principal to answer questions about her sexual orientation, because of the “rumours” she heard about her. She asked her to either deny her hypothetical relationship with a woman, or to admit it and be open to find a way of “solving the issue”. In this occasion, the teacher firmly refused to answer any questions related to her

⁵⁴ The Guardian - Lesbophobia is homophobia with a side-order of sexism – 2013:

<https://www.theguardian.com/commentisfree/2013/jul/09/lesbophobia-homophobia-side-order-sexism>

⁵⁵ In this report the term disabled people and the term people with disability will be used in an interchangeable way, to be both intended as respectful and inclusive. The terminology disabled people is used in an identity-first language, emphasizing disability as a key part of someone's experience. It implies the recognition of the social process of disablement enacted for individuals with impairments. (See: M. Olivier, *The social Model in Action: If I had an hammer*, in C. Barnes, G. Mercer (eds.), *Implementing the social model of disability*, Leeds, 2004, 20). On the contrary, the terms “people with disability” is part of a person-first language. It is aimed at highlighting the common features shared by human beings, given that people shouldn't be defined or limited by their disabilities. This language is widely used in the context of human rights international law, as a result of the approval of the UN Convention on the Rights of Persons with Disability (2006).

personal life. After this conversation the teacher's contract was not renewed. The case was brought in front of **Tribunale di Trento**, and in 2021 it reached a final decision.⁵⁶

All three levels of the judiciary, including the Corte di Cassazione, confirmed that the teacher was discriminated against, and condemned the institution to pay compensation for the damages inflicted. The Court rejected all arguments from the school that the teacher behaved inappropriately with the students. Such statements were classified as defamatory in the decisions.

Furthermore, the decision clearly stated that the school had the right to pursue their ideological values, but this cannot legitimate the noncompliance with the principle of non-discrimination. Any similar arguments from the school, indeed, were rejected by the Courts that clearly stated that the respect and the pursuit of religious values of ideologically orientated organisations and employees, cannot go this far as to legitimate any discrimination on the basis of sexual orientation.

The impact of gender inequalities in the experience of discrimination

A gender-segregated labour market and lack of equal participation in professional life for women means there is a gender pay and pension gap in the majority of European countries.⁵⁷ LBQ women are also exposed to this issue, in addition to discrimination based on sexual orientation, gender identity and gender expression.

According to the **FRA LGBTI Survey II**, for example, 21% of lesbian and 18% of bisexual women experienced discrimination in the 12 months before the survey at work or when looking for a job. Unfortunately, the collection of data often overlooks the intersectionality of such discrimination. For example, when it comes to occupational status, the FRA Survey did not allow respondents that indicated that they were in paid work to provide specifics about their employment situation, such as if they were in part-time or minimum-wage employment. Women in general are more likely to be employed in precarious and atypical jobs.⁵⁸ Data collection, in order to take into consideration multiple and intersecting discrimination, has to be attentive to general trends of gender inequalities and analyse whether these are impactful for lesbians and other LGBTI women. In this sense, data relating to the quality of employment relationship is as important as data on the employment rate.⁵⁹ Even at the national level, there is a gap in data showing intersectional forms of discrimination in employment towards LBQ women, together with the lack of acknowledgement on the specificity of these experiences in law, legislation and policy.

Recommendations

- I. Implement comprehensive data collection methods, including surveys and focus groups, to capture intersectional discrimination experienced by LBQ women in employment, also considering the impact of factors such as gender, disability, race, socio-economic disparities, age and others.
- II. Ensure that both public and private sectors participate in data collection, with regular reporting and analysis to inform policy decisions.
- III. Create a publicly accessible database of existing good practices and encourage employers to adopt and adapt these strategies in their own organisations.

⁵⁶ <https://www.ilpost.it/2021/11/03/scuola-paritaria-trento-discriminazione/>

⁵⁷ EL*C (2023): Making the invisible visible, a first analysis of older lesbians lived experiences.

⁵⁸ EIGE 2023, Gender Equality Index Report

⁵⁹ EL*C (2023): Making the invisible visible, a first analysis of older lesbians lived experiences.

- IV. Mandate regular, comprehensive training courses on unconscious bias for public and private sector employers, with a focus on intersectionality and inclusivity.
- V. Establish accountability mechanisms to ensure training on unconscious bias is implemented effectively, such as requiring certification and ensuring that such mechanisms are supported by clear, transparent procedures for investigating and addressing complaints, with regular oversight.
- VI. Create financial incentives for public and private employers to adopt policy that fosters diversity in terms of gender, sexual orientation and other factors in recruitment procedures and in the workplace.
- VII. Approve and enforce anti-discrimination law that covers grounds of gender, sexual orientation, gender identity, and gender expression, and the possibility of acknowledging intersectional discrimination.

V. EDUCATION

The experience of LGBTI youth is highly influenced by educational settings, and schools are not as safe and welcoming as they could be. This situation causes serious consequences for LGBTI young people, the most immediate are related to lower academic results and early dropping out of school, but many other consequences are in the future and are related to their access to employment and financial stability. These forms of violence and discrimination have detrimental effects on young people's physical and mental health in terms of anxiety, fear, stress, loss of confidence, low self-esteem, loneliness, isolation, self-harm, depression, and an increased risk of suicide.

LGBTIQ+ youth, or those perceived as such, are more likely to feel unsafe and to experience discrimination, violence, and bullying at school. However, specific challenges are particularly evident for LBQ girls and non-binary individuals. It has been observed that one of the main reasons for bullying resides in the perception of the "otherness" of the victims.⁶⁰ Young lesbians (especially if considered "too masculine"), transmasculine and transfeminine people, and non-binary people are therefore more likely to experience bullying, due to their gender expression and their attitude to dismantling gender norms. On this point, for example, it is important to observe how the actual sexual orientation and/or gender identity of the person is not relevant: it is the perception of it, and in the end the perception of the disruption of the social norms on sexual orientation and gender that generates violence.

For example in June 2021 in Turin, **Italy**, right after school had finished and outside the building of a lower secondary school, two girls were followed and then attacked by a group of peers because they were carrying a rainbow shopping bag.⁶¹ The girls were surrounded, insulted with words such as "Sluts" or "Lesbian, piece of rubbish, burn alive", spat on, and beaten, with one of the girl's nose being broken. In 2022 however, the case was dismissed,⁶² showing how the seriousness of lesbophobic bullying is often also overlooked by judicial authorities and dismissed as "kids' stuff".

Prejudice, negative attitudes and stereotypes against LGBTI people are commonplace in education, through teaching practices and curricula, school policies and regulation.⁶³ What is observed in several countries is the lack of a systemic approach in implementing anti-bullying strategies, awareness training and developing inclusive curricula, and very little public funding is available to support such initiatives. This is also connected to the fact that in many countries such as **Italy, Spain, Bulgaria, Romania** and others, the education of gender and SOGIESC issues is a very politicised issue, monopolised by anti-gender and conservative groups. In the following paragraph we are going to analyse some cases and issues related to the implementation of a systemic/institutional response (or lack of thereof) in relation to backsliding forces and grassroots good practices and strategies.

⁶⁰ Office of the United Nations High Commissioner for Human Rights, UNESCO (2023), LGBTI youth: bullying and violence at school, <https://unesdoc.unesco.org/ark:/48223/pf0000387193>

⁶¹ <https://www.ilfattoquotidiano.it/2021/06/11/torino-tredicenni-aggredite-e-picchiate-alluscita-di-scuola-per-la-borsa-arcobaleno-siete-delle-lesbiche-schifose/6227296/>

⁶² <https://www.lastampa.it/torino/2022/06/15/news/il-pugno-delle-baby-bulle-lesbica-brucia-viva-il-giudice-archivia-la-denuncia-troppo-piccole-per-la-condanna-1.41512579/>

⁶³ S.T. Russell, M.D. Bishop, V.C. Saba, I. James, S. Ioverno Promoting School Safety for LGBTQ and All Students. Policy Insights Behav Brain Sci. 2021 Oct;8(2):160-166

Institutional responses and initiatives for safe environments

Despite general difficulties, some countries have adopted law to establish specific curricula aimed at preventing and combatting any form of gender-based violence.

Good practice: the law of new education (Ley de Educación, LMLOE), Spain

In December 2020, despite significant opposition, the **Spanish Parliament** approved Ley Organica 3/2020 on Education which aims at eradicating gender discrimination in educational institutions, by promoting a non-sexist and stereotype-free education. The law is based on three different pillars: I) granting equal opportunities in access to education; II) eliminating gender stereotypes in educational materials; III) promoting training courses for teachers and educators. The Law specifically mentions the need to educate on equality and respect for every person regardless of gender and sexual orientation. The Law mandates effective sexual education based on sexual diversity and on the prevention of sexual harassment and gender-based violence. Moreover, it establishes the need to address the issue of active citizenship and human rights in the school curriculum, which must educate on gender equality, sexual diversity, prevention of gender-based violence and the respect of basic human rights.

The Law embraces a notion of gender equality that includes LGBTI issues. The understanding of gender, sexual orientation, gender identity, and sexual characteristics issues as interconnected is key. It allows for a comprehensive approach in education, capable of addressing intersectional experiences such as the ones of LBQ women. This approach is further strengthened by the approval of Law 4/2023 for trans equality and LGBTI rights. This law contains very specific and detailed provisions on education (Art. 20-art. 24), including different aspects such as the study of LGBTI+ issues in school and university, teacher training, duties of educational institutions etc, to be applied in coordination with the above-mentioned legislative framework.

These systemic approaches to gender education are however quite rare, because of the impossibility for institutions to contrast narratives coming from illiberal anti-gender forces in such fields. Quite often, in anti-gender campaigns and actions, the education for the prevention of discrimination and bullying is distorted as “propaganda” and described as in contrast with family education, in terms of general values but also in terms of religious freedom. This strategic narrative that conflates gender equality issues and freedom of religion issues was openly dismissed, for example, by a decision of June 2023 of the **Tribunal Supremo in Spain**,⁶⁴ The judges rejected the claim against a Decree related to primary education that mentioned the need to incorporate a gender perspective. The case was brought by the Catholic Confederation of Fathers of Family and Parents of Students (la Confederación Católica de Padres de Familia y Padres de Alumnos). This decision shows the importance of having a clear legislative framework that can support educative initiatives against these legal attacks. Educating on inclusiveness and gender equality is in line with fundamental values and human rights. Clear reference to such values in legislation protect this initiative from political attacks.

The lack of systemic approach and the role of the conservative anti-gender movements

The continuous attacks from anti-gender movements against educational initiatives, aimed at increasing inclusivity, create an intimidating climate against teachers, activists, educators and people from civil society that support such actions, as the case below illustrates.

⁶⁴ Decision of the Tribunal Supremo, STS 2855/2023

Highlight: The case of “A Fairytale for Everyone” in Hungary

In September 2020, **Hungary**-based Labrisz Lesbian Association published a fairytale collection entitled ‘A Fairytale for Everyone’, which represented diversity in society and included LGBT+ characters. As a response to this publication, an extreme-right wing member of Parliament (Our Homeland party) shredded the book in public. A demonstration was organised by the same political party in front of the office of Labrisz. Several bookshops selling the book found posters and stickers on their shopfronts saying, “Homosexual propaganda literature harming children is sold here”.

In January 2021, Labrisz was ordered by Consumer Protection to clearly state on the cover of the book that the contents contained descriptions of behaviour deviating from traditional gender roles. In the meantime, the first instance court of Budapest held that the newspaper Magyar Nemzet, violated the rights of Labrisz because of the opinion piece that equated Labrisz activities with paedophilia. The verdict was however overruled by the Court of Appeal in 2022 and later confirmed. Labrisz filed a constitutional complaint against the judgment.⁶⁵ The censorship and subsequent “LGBTI propaganda law” triggered the 2021 European Commission infringement procedure against Hungary and a following referral of the case to the Court of Justice.⁶⁶

The effectiveness of these movements lies in their strong connections with the media, government bureaucracies, and institutional political actors. This influence is particularly concerning as they increasingly gain representation in national, local, and European parliaments.

EL*C member Associazione Te@ reported a case which occurred in the autonomous province of Trento, in **Italy**. Despite a lack of a unified national approach to gender equality in education on the National territory, the province of Trento adopted a systemic approach to inclusive education in 2008. Thanks to the collaboration of different institutional actors, a program on gender equality and the prevention and combatting of gender-based violence was offered in secondary schools for a decade. In 2018, the newly formed right-wing Government of the Province (Lega Nord party) cancelled these courses one month before their effective start date. The decision was based on an alleged need to further verify their actual contents, and its conformity with the Government’s political values: serious suspicions were raised on the possibility that the lessons were spreading so called “gender ideology”.⁶⁷ Local elected representatives, in collaboration with a right-wing newspaper, publicly targeted the educators involved in the courses. The personal data of the teachers was published online, together with screenshots of some of their Facebook posts (related to *Jus soli*, Pride month, etc). The trainers reported to EL*C that the smearing campaign attacked their professionalism, portraying them as 'political activists' unfit to teach in schools. It resulted in a violent wave of sexist, misogynistic and lesbophobic online hate speech against the trainers, who reported the hate speech to the relevant authorities.

The program was never re-established, and the possibility of having such courses is now based on the political orientation and economical resources of each educational institution or even professor. Nonetheless in 2023, in line with a national plan by the anti-choice and anti-gender movement, a draft local law on “educational freedom” was presented, against “gender ideology/theory” in schools. The policy aimed at establishing the superiority of family values in

⁶⁵ https://en.hatter.hu/sites/default/files/dokumentum/kiadvany/hatter-anti-lgbtqi-law-november-2023_1.pdf

⁶⁶ https://ec.europa.eu/commission/presscorner/detail/en/IP_22_2689

⁶⁷ <https://www.ilfattoquotidiano.it/2019/01/04/trentino-lega-sospende-corsi-nelle-scuole-sulla-relazione-di-genere-vogliamo-evitare-discorsi-su-sessualita-dei-bambini/4874312/>

public schools in the region, creating a pervasive control mechanism over any initiative related to gender equality, gender stereotypes and LGBT issues in the schools.⁶⁸

Good practice: grassroots initiatives of resistance

By claiming to protect children from indoctrination, these movements are exposing LGBT youth—especially those with intersectional identities, such as LBQ girls, non-binary individuals, youth with disabilities, and youth of colour—to vicious attacks. As a result, public educational institutions are left without the means to effectively counter violence and inequality.

Despite these challenges, feminist movements, educators' organisations, civil society, and LGBTIQ+ activists are reinforcing alliances and actively creating and sharing good practice. For example, the Coalition for Gender Equality (formed by five non-governmental organisations in the field of women's rights) in **Romania** created a handbook on gender equality and intersectionality for secondary school teachers, available for free online, which was then translated into English.⁶⁹ In **Italy**, “Educare alle differenze” is a network of associations, NGOs, informal collectives, teachers and educators committed to advancing gender equality at all levels in Italian schools. Each year since 2014 the network organises a two-day conference and meeting to exchange good practice and develop common strategies.⁷⁰

Recommendations

- I. Develop and implement educational curricula on gender equality and LGBTI issues that undertake an intersectional approach to prevent any form of gender-based violence and bullying/harassment in schools and educational settings.
- II. Offer sexual and relational education in schools that are affirmative of LGBTI identities and ensure materials are designed to be accessible for students with disabilities.
- III. Establish initiatives in schools at every level and at universities for significant dates such as IDAHOT, Lesbian Visibility Day and others.
- IV. Ensure that professional support from counsellors and psychologists is available to prevent, report, and promptly address bullying.
- V. Ensure that school counsellors and psychologists undertake an LGBTI affirmative approach and adopt an intersectional lens in their work.
- VI. Ensure that trans/non-binary students are recognised within educational institutions by their chosen name and gender.
- VII. Provide continuous teachers' training on gender and LGBTI issues that incorporate an intersectional approach.
- VIII. Provide opportunities for educational institutions, experts, trainers, and representatives of students to meet and discuss issues and strategies and share good practices.
- IX. Provide public funding to support grassroots initiatives that promote gender equality and LGBTI inclusivity in schools and educational settings.

⁶⁸ <https://www.ladige.it/cronaca/2023/02/11/la-destra-trentina-tira-dritto-e-avanza-la-legge-a-scuola-no-all-indottrinamento-gender-1.3423370>

⁶⁹ The handbook was created by a team of experts and researchers made up of Alexandra Columban, Irina Ilisei, Dana Marțiș, Laura Grünberg, Georgiana Lincan and Andreea Voina, within the EGALIS project: gender equality through social change and education and has been translated in English in 2023 through the efforts of ACTEDO Association. It can be downloaded at this link: <https://ongen.ro/2023/09/01/handbook-in-english-for-teachers-integrating-gender-equality-in-the-classroom/>

⁷⁰ <http://www.educarealldifferenze.it/>

VI. HEALTH

Disparities and inequalities in the field of health are quite well known nowadays. Gender-based medicine was born around the 1990s in order to address different health conditions of women and men related to different sex characteristics and gender and the connected stereotypes, bias and prejudices. This field of inquiry acknowledges that medical science is not neutral. Modern Western medicine is a strongly masculinised construct, based on the idea of the male body as the neutral one, thus making women and gender diverse people invisible and failing to address their specific needs.⁷¹

The **World Health Organisation**, in its definition of gender-based medicine, embraces a broad definition of gender that explicitly encompasses social norms, roles and relationship impacting men and women health, but also how this construction affects the people who do not comply with gender norms.⁷² For these reasons, historically, women and people assigned female at birth (AFAB) are the ones that experience the most severe form of discrimination in the field of health, and a non-conforming sexual orientation then represents an additional layer of oppression.

In this general framework, the following section will provide more information and concrete examples related to clinical trials, scientific research and clinical practice, sexual and reproductive health, mental health and training for medical professionals.

Invisible needs: LBQ women in clinical trials, scientific research and clinical practice

Clinical trials are a prime example of this multilayered discrimination, from different points of views. For example, it has been shown how, except for contraception, women and AFAB persons' health conditions and pathologies are overlooked by extensive studies because of a lack of funding.⁷³ Gender/sex-specific pathologies such as endometriosis and adenomyosis, increasingly present in the population, for example, still have no scientific explanation or cure. If women and AFAB persons are generally underrepresented in clinical trials, we also must acknowledge that there are very few studies and scientific research that consider the combination of data such as sex assigned at birth, gender identity and sexual orientation.⁷⁴

Research conducted by EL*C in 2020⁷⁵ found that lesbians are underrepresented in medical research even within sexual and gender minority populations. Out of the 230 health-related reviews eligible for inclusion in the research, only 8% (19) focused on lesbian, bisexual and other non-heterosexual women specifically. Conversely, 51% (118) focused exclusively on gay, bisexual, and other non-heterosexual men and another 40% (93) focused on mixed populations. In addition, they observed that research on lesbian women is characterised predominantly by North American research, while studies from Europe and Central Asia are rare. On average, only 10% of studies included in a health-related systematic review stem from a European country and include data on lesbians. This implies that there may be many conditions, pathologies and risk factors that might disproportionately affect LBQ women and non-binary persons which remain understudied, limiting the development of effective treatments and preventive measures. For

⁷¹ L.Schiebinger (2014), Scientific research must take gender into account, in *Nature*, 7490, 2014, 9 ss

⁷² See: https://www.who.int/health-topics/gender#tab=tab_1

⁷³ M.Evans, F.Whitehead,A.Diderichsen,A,Bhuiya,,M.Wirth (2001) *Challenging Inequities in Health: from Ethics to Action*, New York, 2001, 181 ss

⁷⁴ K.E.Baker,C.G.Steerd,L.Edurso (2021), Ensuring That LGBTQI+ People Count- Collecting Data on Sexual Orientation, Gender Identity, and Intersex Status, in *N Engl J Med*, 384, 2021, 1184-1186

⁷⁵ EL*C (2020), *The State of Lesbian Organising and the Lived Realities of Lesbians in the EU and the Accession Countries*

example, some explorative studies seem to show that bisexual women are more inclined to suffer from chronic pelvic pain and develop cervical cancer compared to heterosexual women.⁷⁶

Severe disparities are also present in clinical practice. The research available shows that the combination of misogyny and social stigma related to a non-heterosexual orientation can result in harmful or inadequate treatment from healthcare professionals, including inappropriate curiosity, lack of knowledge about specific healthcare needs, and assumed heterosexuality and heteronormativity by healthcare staff and in healthcare settings.⁷⁷ This can lead lesbians to not disclose their sexual orientation, even when this information would be instrumental for them to receive holistic healthcare. A **German study** revealed that only 40% of lesbian and other non-heterosexual women had revealed their sexual orientation to their doctor, while 11.9% had not done so even though they considered it important for examination or treatment.⁷⁸ Ultimately, this situation can lead to avoidance or withdrawal from the healthcare system altogether.⁷⁹

Good practice: HPV screening in the Netherlands

In 2017, the government in the **Netherlands** introduced some innovations in the screening programme related to cervical cancer. The main changes involved the introduction of the self-sampling kit. The self-sampling kit contributes to promoting the accessibility of the population screening for cervical cancer. The screening organisation sends invitations according to a set schedule, ensuring that transgender individuals and those with an O/X gender registration are included.

People who are eligible for an invitation receive it around their birthday, together with the invitation leaflet. The screening test, by means of self-sampling, starts when someone requests the self-sampling kit from the screening organisation. However, invitees aged 30 and those aged 35-60 who have not responded to the invitations will receive the self-sampling kit automatically. They can use this to collect the material themselves and then send this to be tested for Human Papilloma Virus (HPV).

As a result of this innovation, several outcomes of the screening have changed. The number of detected cancer precursors has risen by more than a quarter. Allegedly, the self-sample kit incentivises populations who often suffer distress and discrimination in the context of gynaecological healthcare, such as LBQ women, non-binary and trans persons, to be monitored safely.

Access to healthcare can be even more problematic in times of crisis, as the COVID-19 pandemic emergency showed. **EL*C** conducted **extensive research on the effects of COVID-19** on lesbian life, finding out that, when it comes to health issues during that time, almost one in three (29%) respondents to the EL*C survey experienced difficulties in getting an appointment with a health care practitioner and almost one in four (23%) respondents experienced issues related to accessing special medical treatments (hormone treatments, fertility treatment, chemotherapy, psychotherapy).⁸⁰ For respondents subject to further intersectional

⁷⁶ K. Robinson, K.Y. Galloway, S. Bewley, C. Meads (2017), Lesbian and bisexual women's gynaecological conditions: a systematic review and exploratory meta-analysis, in *An International Journal of Obstetrics & Gynaecology*, 3, 2017, 381-392

⁷⁷ EL*C (2022), A bitter pill to swallow. Gaps And Discriminations In Healthcare For Lesbians

⁷⁸ K. Hirsch O, Löltgen, A. Becker (2016) Lesbian women's access to healthcare, experiences with and expectations towards GPs in German primary care. *BMC Fam Pract.* 2016;17:1-9.

⁷⁹ M.B. Wells, S.N. Lang (2016). Supporting same-sex mothers in the Nordic child health field: a systematic literature review and meta-synthesis of the most gender equal countries. *J Clin Nurs.* 2016;25:3469-83.

⁸⁰ EL*C (2021): Resistance as a Way of Living: Lesbian lives through the COVID-19 Pandemic

discrimination, access to healthcare was even more difficult. Trans respondents experienced difficulties in accessing general health care services in 35.5% of the cases (against 27% of cis respondents), and to specific treatments in 35% of the cases (against 19.6% of cis respondents). Having a disability was also a major factor limiting access to healthcare. The majority (55%) of lesbians with a disability experienced difficulties in accessing general healthcare (against 27% in cases of respondents without a disability), as well as in accessing special medical treatments (50% of respondents with a disability versus 21% of respondents without a disability).

As the above-mentioned data shows, the actual barriers and distrust in healthcare systems is even higher for LBQ women exposed to additional intersecting forms of discrimination. Black, Indigenous, and People of Colour (BIPOC) and migrant lesbians face unique but under-researched vulnerabilities.⁸¹ For instance, a lack of data conceals the specific health needs of lesbians and transgender persons living with Female Genital Mutilation (FGM) in Europe.⁸² Moreover, trans lesbians face unique experiences of discrimination, such as being misgendered or being confronted with practitioners who lack awareness of transgender health issues.⁸³ LBQ women and non-binary persons with disabilities experience poor standards of healthcare, and in particular poor access to gynaecological and sexual health.⁸⁴

Sexual and reproductive health

The challenges in research and clinical practice become even more pronounced when examining the sexual and reproductive health of LBQ women and non-binary individuals. According to the **FRA 2023 LGBTI Survey**, 49% of cis women and 30% of trans women reported difficulties when using or trying to access sexual healthcare. Participants in a qualitative study on lesbian and bisexual women's experiences conducted in Finland described the healthcare system as being heteronormative.⁸⁵ This attitude, together with sexism and misogyny, has an important impact in the sphere of sexuality and reproduction. Distorted beliefs and stereotypes concerning lesbians' sexuality expose lesbians to forms of lesbophobic gynaecological violence and discrimination, which negatively impact their access to healthcare systems, especially in settings where sexual behaviours are particularly relevant.

Furthermore, medical practitioners might provide inaccurate or incomplete medical information even to LBQ women that come out to them. For example, a prevailing myth and misconception among some healthcare professionals and in lesbian communities is that women with exclusively female and/or AFAB sexual partners are not at risk of a HPV infection and thus of

⁸¹ L.T. Dean, N. Greene, M.A. Adams, S.R. Geffen, J. Malone, K. Tredway, et al. (2021) Beyond Black and White: Race and sexual identity as contributors to healthcare system distrust after breast cancer screening among US women. *Psycho Oncology*. 2021;1–6. N. Greene, J. Malone, M.A. Adams, L.T. Dean, T. Poteat (2020). "This is some mess right here": Exploring interactions between Black sexual minority women and health care providers for breast cancer screening and care. *Cancer*. 2020;127:74–81. J. Malone J, Sngun S, L.T. Dean, M.A. Adams, T. Poteat (2021). Breast cancer screening and care among Black sexual minority women: A scoping review of the literature from 1990 to 2017. *J Women's Heal*. 2019;28:1650–60. Florquin, S(2021).

⁸² Besoins et demandes en matière de santé et droits sexuels et reproductifs des femmes concernées par les mutilations génitales féminines en Région de Bruxelles-Capitale, Rapport du diagnostic communautaire mené dans le cadre du Réseau bruxellois contre les MGF. Bruxelles, Ed : GAMS Belgique. <http://www.strategiesconcertees-mgf.be/wp-content/uploads/20210531-SCMGF-DIAGNOSTIC-FR-VF-2.pdf>

⁸³ Meads, Hunt, Martin, Varney. A systematic review of sexual minority women's experiences of health care in the UK. *Int J Environ Res Public Health*. 2019;16:3032.

⁸⁴ Eliason, Michele J., Marty Martinson, and Rebecca M. Carabez. "Disability among sexual minority women: Descriptive data from an invisible population." *LGBT health* 2.2 (2015): 113-120.

⁸⁵ Soinio JI, Paavilainen E, Kylmä JPO. Lesbian and bisexual women's experiences of health care: "Do not say, 'husband', say, 'spouse.'" *J Clin Nurs*. 2020;29:94–106.

developing cervical cancer.⁸⁶ This results in lesbians being advised not to conduct tests and examinations even when they contract sexual transmissible infections or report a history of cervical anomalies. A **study from Sweden** showed that women who have sex with women had less experience with gynaecological examinations and cervical screening. Yet, more than one-fifth of these women had at some time contracted a sexually transmitted infection and 12.6% reported a history of cervical anomalies.⁸⁷

Both non-binary and transmasculine persons, moreover, as well as trans women, might be at risk of falling outside of screening and prevention programs for cervical cancer and prostate cancer respectively. Often, in fact, national health systems fail to address such needs after legal gender recognition, as reported by several countries. For example, a recent report of the Superior Institution of Health in **Italy**, showed that only the 20% of the transmasculine population go for the cervical screening, compared to the 79% of the population of cisgender women.⁸⁸

As previously mentioned, the reproductive needs of LBQ women and AFAB individuals are often overlooked. This is particularly evident in the lack of a systemic approach to fertility preservation for trans people, including oocyte preservation for transmasculine/non-binary individuals and sperm preservation for transgender women. Similarly, several EL*C members have reported limitations and discrimination against LBQ women and AFAB persons trying to access abortion.

Highlight: gynaecological discrimination against lesbians in Slovenia

In 2023 in **Slovenia**, the Ombudsperson established that a lesbian woman, who underwent IVF treatment outside the country (in Austria), was discriminated against by a doctor who refused to provide her with medically assisted reproduction aftercare.⁸⁹

The doctor justified this action with her alleged right to conscientious objection, which was then rejected by the Slovenia's Medical Association. In particular, the doctor claimed the legitimacy of refusing her services to same-sex patients who underwent IVF abroad. The Medical Association and its Committee for legal and ethical issues rejected the request for conscientious objection for its discriminatory nature. The decision found that there was discrimination based on sexual orientation and a breach of the principle of equality. It was stated that: "The right to healthcare is an important part of human rights and a constitutional value. Denying medical treatment exclusively to lesbian patients who are in the process of IVF is unacceptable. Healthcare must be accessible to everyone, regardless of their personal circumstances, such as gender and sexual orientation."

Mental health

Another issue which is particularly relevant for LBQ women and non-binary persons is mental health. Mental health is a very gendered issue, and also, in connection with minority stress⁹⁰, is

⁸⁶ Ranstetter AJ, McRee A-L, Reiter PL. Correlates of human papillomavirus infection among a national sample of sexual minority women. *J Women's Heal.* 2017;26:1004–11.

⁸⁷ Moegelin L, Nilsson B, Helström L. Reproductive health in lesbian and bisexual women in Sweden. *Acta Obstet Gynecol Scand.* 2010;89:205–9.

⁸⁸ ISS (2022), Studio sullo stato di salute della popolazione transgender adulta in Italia

⁸⁹https://zagovornik.si/ginekologinja-diskriminirala-pacientko-zaradi-spolne-usmerjenosti/?fbclid=IwAR3htPe8xpSXc1FNH3jXrNUbkfXCe_6sGOaFg0Z6NNHaiyaKxWhRP_-Z0

⁹⁰ The concept of "minority stress" has been developed in sociological and psychological studies, starting from a book by V.R. Brooks, *Minority stress and lesbian women* (Lexington Books, Lexington, Mass, 1981). The book explored the unique stressors and challenges faced by lesbians as members of a stigmatized minority group. The concept has then expanded to include minority factors based on SOGIESC as well as race, ethnicity, religion and disabilities.

a strong factor of concern for LGBTIQ+ people. In **2021 EL*C** conducted a **meta-analyses, using pooled data from studies conducted within European countries**, that found that European lesbians display high risks related to suicide (41% with regard to lifetime suicidal ideation and 17% with regard to lifetime suicide attempts) compared to heterosexual women (17% with regard to lifetime suicidal ideation and 4% with regard to lifetime suicide attempts).⁹¹ Another relevant aspect when it comes to mental health is the impact of the lack of legal recognition of lesbian kinship and families in many countries. Data shows that such situations have serious consequences both on the member of the couple/family⁹² and their children.⁹³

Starting from these points it is particularly worrisome to notice a lack of scientific attention and sensitivity to the topic, given that lesbians face specific or higher risks of experiencing mental health problems, in comparison to heterosexual women.⁹⁴ More research and public policy intervention on this issue is urgently needed. The severe mental health conditions reported however, might be (at least partially) explained by psychological consequences of systemic lesbophobia, such as experiences of discrimination, negative internalised thoughts about one's sexual orientation, or having to conceal one's sexual orientation and gender expression,⁹⁵ as well as everyday sexist and misogynist discrimination. In this sense, training of practitioners focusing on the systemic roots of such interconnected inequalities and on the impact that they have on LBQ women will be key.

Training of medical practitioners

Most of the issues highlighted in the previous paragraphs are related to the fact that medical practitioners at all levels are not adequately trained on a gender-based medicine approach and SOGIESC issues, both from a medical/clinical and relational point of view.

This is particular evident when it comes to trans health. Our questionnaire revealed that in **Croatia** there are merely a few medical experts trained for providing adequate medical care to trans persons, and only in the capital, Zagreb. There are a few trans-informed urologists and gynaecologists, one endocrinologist, no one does so-called “bottom surgeries”, and only one surgeon does “top surgeries” – in a private clinic. Of course, this situation disproportionately impacts trans people from rural areas and the ones that have less economic resources.

University curricula often do not include gendered approaches, or if they do similar training, is not mandatory., The same can be said for what concerns continuing education courses. Currently in Europe, physicians and healthcare staff are only partially trained on LBQ women health issues. Nonetheless, there are many interesting (but non-systemic) initiatives, led by NGOs, collectives, and informal groups, quite often involving queer doctors themselves.

⁹¹ EL*C (2020). The state of lesbian organizing and the lived realities of lesbians in the EU and the accession countries <https://europeanlesbianconference.org/the-state-of-lesbian-organising-a-groundbreaking-research/>

⁹² Siegel M, Assenmacher C., Meuwly N, Zem, Martina (2020). The Legal Vulnerability Model for Same-Sex Parent Families: A Mixed Methods Systematic Review and Theoretical Integration Front. Psychol. 12:644258.

⁹³ Bos, H. M., Gartrell, N. K., van Balen, F., Peyser, H., & Sandfort, T. G. M. (2008). Children in planned lesbian families: A crosscultural comparison between the United States and the Netherlands. American Journal of Orthopsychiatry, 78(2), 211–219

⁹⁴ Plöderl M, Tremblay P. Mental health of sexual minorities. A systematic review. Int Rev Psychiatry. 2015;27:367–85. Lick DJ, Durso LE, Johnson KL. Minority stress and physical health among sexual minorities. Perspect Psychol Sci. 2013;8:521–48.

⁹⁵ Meyer IH. Prejudice, social stress, and mental health in lesbian, gay, and bisexual populations: Conceptual issues and research evidence. Psychol Bull. 2003;129:674–97

Good practice: community-based service in Spain, France, Belgium, Netherlands and Switzerland

In Europe, many lesbian and queer associations are developing community-based good practices in order to fill in the gaps in sexual and reproductive healthcare.

For example, both the projects “Tomber la coulotte⁹⁶” in **France** and “Salud integral de la mujeres diversas⁹⁷” from the Fundacion 26 Diciembre in **Spain** aim at disseminating information on the health of lesbians and the prevention of sexually transmitted infections.

The project “GotoGyneco⁹⁸” in **Belgium** aims to increase LBQ women's engagement with gynaecological health, in particular in relation to sexually transmitted infections. The association has many activities such as informative campaigns, but its main effort is to bridge the gap between lesbian communities and health professionals. For example, they have created and offer a database of gynaecologist and healthcare professionals trained in providing affirmative and inclusive care and also specific training courses.

The NGO Treat it Queer,⁹⁹ led by queer medical practitioners and based in **the Netherlands**, is carrying out several projects to raise awareness on LGBTI issues and establish good practice in care settings, including toolkits and educational materials for healthcare professionals.

In **Switzerland**, a group of doctors is currently developing course modules for primary care physicians and healthcare staff in French. These online continuing education courses will be translated into German by the NGO LOS- Swiss Lesbian Organization in 2025. These training and continuing education modules are recognised by universities and are eligible for academic credits.

Recommendations

- I. Improve research and data collection on LBQ women, particularly in studies on health of women and/or LGBTI people, by including tailored survey items and reporting disaggregated data for LBQ women.
- II. Ensure dedicated funding from national and international bodies for research focused on LBQ women's health, addressing barriers to healthcare access, sexual health needs, and mental health disparities (e.g., sexual health needs, heightened mental health vulnerabilities).
- III. Ensure the inclusion of lesbian-led organisations and community experts throughout the research cycle, in order to conduct research that is not only rigorous, but also inclusive, intersectional, and beneficial to the community.
- IV. Promote and support research projects specifically aimed at understanding the effects of intersectional discrimination on LBQ women (e.g. older lesbians, transgender lesbians, BIPOC lesbians, migrant lesbians, and lesbians who are asylum seekers or have refugee status) and the impact of this multi-layered discrimination on access healthcare and specific health disparities.
- V. Guarantee equitable access to assisted insemination, preservation of eggs and sperm, and IVF processes for LBQ women, non-binary and trans people.
- VI. Ensure that preventive health services (such as cancer screenings), are fully accessible to LBQ women and non-binary individuals without discrimination, by

⁹⁶ <https://www.sos-homophobie.org/informer/ressources/tomber-la-culotte-2>

⁹⁷ <https://www.fundacion26d.org/en>

⁹⁸ <https://gotogyneco.be/projet/>

⁹⁹ <https://www.treatitqueer.org/>

- countering bias and stereotype concerning LBQ women and non-binary individuals among medical professions.
- VII. Provide mandatory training for healthcare professionals with regard to the specific needs of LBQ women and non-binary people's health and with the direct involvement and leadership of lesbian civil society organisations.
 - VIII. Develop and implement university curricula for all medical practitioners at all levels on gender-based medicine, LGBTI health and intersectionality, with attention towards language and clinical good practice for a safe and welcoming environment.
 - IX. Strengthen and increase visibility, participation, and representation of lesbian civil society organisations in policies and policy-making processes concerning public health and healthcare services.
 - X. Provide sustained funding for community-based initiatives that address healthcare access gaps and specific health disparities affecting LBQ women and non-binary individuals.

VII. HOUSING

Housing is a major concern for LBQ women throughout their life. According to the UN, women worldwide face discrimination based on gender in many issues related to housing. This experience is often aggravated by other factors, for example sexual orientation and other intersecting identities.¹⁰⁰

For example, access to housing for senior lesbians is a particularly pressing issue, according to the **2023 EL*C research on older lesbians**.¹⁰¹ The situation is different within the European region, and it is also connected to general socio-economic conditions such as pension levels, access to property ownership, and access to private or semi-private rental properties. In countries such as **Greece** and **Hungary**, the housing situation is a concern because of generalised poverty. Additionally, in **Germany** where the urban housing crisis has worsened, older lesbians often fear losing their flats as their rents go up, especially in bigger cities. Similar information was shared by interviewees from **Spain**: in Madrid, Fundacion 26D registered cases of senior lesbians facing a precarious economic situation due to low pensions. In some countries, for example **Italy**, the housing situation can be an issue even when there is generalised access to private property ownership. LBQ women may also face unique challenges related to family rejections and ownership of private property being linked with marriage. In case of lesbophobic, biphobic, and transphobic families, lesbians may lose the possibility to stay on the family property.

Another interesting point related to age and housing is one connected to care facilities, where LBQ women might experience heteronormativity and a lack of awareness about their specific needs. This is confirmed by **AGE Platform** (a network active at EU level) who, in the framework of the same EL*C research on older lesbians, considered that senior lesbians face multiple and intersecting forms of discrimination due to their age, gender, sexual orientation, race and/or gender identity. The organisation shared having seen cases of discrimination and violence in senior residencies and care facilities, mostly carried out by other residents.

The issue of housing is extremely tangible for all LBQ women who are trying to escape situations of intra-family, domestic or intimate partner violence. Often, shelters and facilities do not have specific skills on gender and SOGIESC issues, recreate heterocisnormative environments, and might be discriminatory in their practices and rules. This results in further forms of discrimination and violence being lived by LBQ women seeking safety and protection.¹⁰²

For example, it has been reported by EL*C members in **Croatia**, that most of the shelters available in the country are managed by the Catholic Church. Bisexual, lesbian, and trans women that are in need of protection have no other option except from this, and they are frequently exposed to religious, lesbophobic, and transmisogynist discrimination and violence. Quite often lesbian organisations and NGOs organise their own systems of support in order to provide safe places for LBQ women. For example, in Ukraine, the NGO Insight reported a case of a lesbian woman seeking admission in a public shelter with her partner and cat. Her application was rejected by the government shelter because they were afraid that the woman and her partner would be abused by other people living there due to their sexual orientation. The NGO reported

¹⁰⁰ OHCHR (2012), Women and the Right to Adequate Housing

https://www.ohchr.org/sites/default/files/Documents/Publications/WomenHousing_HR.PUB.11.2.pdf

¹⁰¹ EL*C (2023): Making the invisible visible, a first analysis of older lesbians lived experiences.

¹⁰² See for example information shared within the research on the implementation of the Istanbul convention on LBT women, EL*C (2024): Mestre i Mestre R., De Vido S., EL*C (2024): Lesbianising the Istanbul Convention. Research on the Implementation of the Convention to Protect LBT Women

having a conversation with the coordinator of the public shelter. The NGO called and asked to provide a solution, stating that “we have normal people living here”, “it is not a place for such people”.

The situation with housing is also very relevant for LBQ refugees and asylum seekers, who have been persecuted in their home countries because of their sexual orientation and/or gender identity. In the arrival country, quite often the refugees and asylum seekers are confronted with existing transphobia and lesbophobia in the broader society, as well as such forms of oppression within the asylum system and within the communities of origin. In this context, LBQ women are particularly vulnerable. Lesbian refugees or asylum seekers, who live on the streets or are in precarious housing situations, are exposed to more risks of aggression, while sexual orientation and/or gender identity can become a factor of isolation for those that manage to obtain a place in a shelter. Their situation requires training as well as reception and accommodation arrangements that consider the specificity of their journey.¹⁰³

Providing non-mixed accommodation solutions is crucial, as most of these persons have suffered violence (and in particular sexual violence) during their migratory journey, whether in the country of departure (forced marriage, conversion therapies), or during the journey that brought them to the country of arrival (such as so called “corrective” rapes). EL*C members in **Italy** and **France** report having supported several LBQ refugees and asylum seekers that have experienced this violence.

Good practice: grassroots lesbian group “Front d’Habitat Lesbien”

The FHL¹⁰⁴ is a grassroots lesbian group in France, that provides lesbian and trans migrants in precarious situations with access to decent accommodation/housing and a dignified life. The FHL was born in 2021 after a group of activists realised how much living conditions were worsening for lesbians and trans migrants during the COVID-19 pandemic. The project’s main aim is to empower residents aim is to empower residents to establish themselves in France and start working, eventually securing independent housing in the social or private sector. Additionally, FHL works to raise awareness among accommodation sector professionals about the specific needs of women and gender minorities.

For their first goal, they opened “Une chambre à soi”, a three-places flat share in Paris made available thanks to a low-cost loan from the City of Paris. The apartment hosts lesbian refugees who have been discriminated against because of their sexual orientation in general accommodation structures and the National Reception System for refugees. Together with a place to stay, FHL offers social and psychological care from a trans lesbian social worker with weekly on-site presence, as well as support for residents in administrative procedures related to social rights and employment. Social activities for lesbian and queer people are proposed and organised with the volunteers of the association, in order to create a safe network, combat isolation, and contribute to increasing the self-esteem and general mental health of the residents. Since the beginning, the house has hosted 8 lesbian refugees for periods of 12-18 months each; all the residents then managed to have access to their own accommodation.

FHL organises a day-care centre where FHL social workers support lesbian and trans people in situation of potential distress related to social rights, residential settings, and health. To date, they have supported 25 LBQ refugees.

¹⁰³ Danisi, C., Dustin, M., Ferreira, N., Held, N. (2021). Housing and Accommodation. In: Queering Asylum in Europe. IMISCOE Research Series. Springer, Cham. https://doi.org/10.1007/978-3-030-69441-8_8

¹⁰⁴ <https://www.helloasso.com/associations/front-d-habitat-lesbien-fhl>

Recommendations

- I. Collect comprehensive data on housing experiences of LBQ women, focusing on intersectional factors such as gender, sexual orientation, gender expression, disability, race, socio-economic disparities, age and others.
- II. Allocate public funding to support community-based services aimed at providing adequate housing to LBQ women and support the creation of shelters for LBQ violence survivors.
- III. Provide training on gender and SOGIESC issues for the personnel and social workers in already existing structures and shelters.
- IV. Incorporate a gendered and LGBTI sensitive perspective in the asylum seekers system.
- V. Provide appropriate and safe solutions for LBQ migrants and train social workers accordingly.
- VI. Establish partnerships between government agencies, non-profits, and private sector housing providers to create inclusive housing solutions for LBQ women in particularly vulnerable situations, as well as LBQ women who belong to historically marginalised groups.

VIII. SPORTS

Sport is a field of empowerment as well as inequality for LBQ women. In general, sport has the potential of being an important arena for the respect of human rights, but is currently permeated by a misogynist, sexist, lesbophobic, transphobic and intersexphobic culture. Women only began participating in elite sports with the advent of the modern Olympics in the early 20th century, and even then, their participation was initially limited to disciplines deemed 'appropriate' for their gender.

In this framework, female athletes struggle to create their own identity, which is commonly perceived in comparison with the universal image of sportive masculinity. This is also linked with the fact that the social institution of sport is key in constructing gender as a natural category. As a result, it becomes a battleground where the intersecting oppressions of gender, gender nonconformity, non-conforming sexual orientation, and racial bias have particularly harmful effects on LBQ women.

This is manifested in the various forms of discrimination and barriers that LGBTI women experience in sports: underfunding, lack of infrastructure, being pressured into so-called “feminine” sports, wage gaps, harassment, bullying, isolation, physical violence,¹⁰⁵ and harmful practices.

Visibility and the culture of silence in sports

Although there are a growing number of LGBTI elite athletes coming out,¹⁰⁶ the “culture of silence” strictly related to lesbophobia is still a tangible phenomenon for LBQ athletes. As highlighted in a 2021 report on LGBTI women in sport,¹⁰⁷ LBQ athletes are pressured to hide their identity in order not to discredit the reputation of the sport and confirm gender-based and lesbophobic stereotypes that sees certain sports as inappropriate for women. This often starts in amateur or juvenile sports, where families are not willing to let their daughters engage in sports that are considered “too masculine” or stereotypically known for being “lesbian environments” that might negatively influence youth. In 2019, an **Italian** sport journalist, who was then sanctioned by the Italian Journalist Association, made a series of statements concerning women’s football, qualifying it as a “Lesbian enclave”.¹⁰⁸

Of course, this very widespread lesbophobic attitude discourages people to come out, in a vicious circle which makes them more vulnerable to violations of their human rights. This includes not only harassment and hate speech, but also clearly discriminatory practices. In 2015, Manuela Benelli, a well-known **Italian** volleyball coach and an out lesbian, reported that her contract included a clause that required her to “not bother” the players, while such clauses are not present in male coaches’ contracts.¹⁰⁹

¹⁰⁵ EGLSF, EL *C, ILGA-Europe, OII Europe, TGEU (2021), LGBTI women in sport: violence, discrimination, and lived experiences

¹⁰⁶ In Tokyo 2020 Olympics, according to OUTSPORT, 186 athletes declared themselves as LGBTI, a number three times higher than Rio Olympics. In Paris 2024 LGBTIQ athletes who are out are presumably 191 according to Outsport: <https://www.outsports.com/2024/7/28/24098536/2024-summer-olympics-paris-record-lgbtq-out-athletes/>

¹⁰⁷ EGLSF, EL *C, ILGA-Europe, OII Europe, TGEU (2021), LGBTI women in sport: violence, discrimination, and lived experiences

¹⁰⁸ <https://www.open.online/2019/06/28/calcio-femminile-covo-lesbiche-telecronista-vessicchio-dopo-insulti-guardalinee-ci-ricasca/>

¹⁰⁹ Interview to Manuela Benelli in the press available here: <https://www.gay.it/nello-sport-contratti-di-lavoroomofobi-denuncia-manuela-benelli>

Media and institutional violence

Incidents of violence and discrimination accompany this recognition in the sports world. For example, the 2023 Women’s Football World Cup was a remarkable event in terms of visibility of women’s sport and LBQ athletes. Nevertheless, athletes who came out were more exposed to lesbophobic violence, in different forms such as hate speech or even objectification. In **Italy**, two football players from Juventus Women that came out as a couple, Lisa Boattin and Linda Sembrant, were made the object of false news coverage by the most important national sport newspaper “Corriere dello Sport”. During the World Cup, when the two players were playing against each other in their respective national teams, the newspaper published an article related to a “sweet kiss” between the two, that allegedly happened before the match. Boattin replied via her social media channels, highlighting the fake nature of the article, but also inviting the media to talk about them as professional football players.¹¹⁰ In a media landscape where women in sports receive very little media coverage, the personal relationships of lesbian athletes are often sensationalised to attract online engagement, without regard for the harmful impact on those involved.

Apart from the general public and the media, forms of violence against LBQ athletes are also perpetuated by state representatives and institutions. As reported in the EL*C Observatory on Lesbophobia, this concerned Ebra Karakurt, a prominent national volleyball player from **Turkey**, who was attacked by a high-level representative of the Turkish state.¹¹¹ A similar case is the one that involves the Italian volleyball player Paola Egonu, an international excellence in her field, who was chosen to carry the Olympic flag for **Italy** during the 2021 Tokyo Olympic games. As a black, non-heterosexual woman, Paola Egonu was publicly attacked and her capability to represent Italy was violently questioned. Amongst others, Mario Adinolfi, leader of a prominent anti-gender party “Il Popolo della famiglia”, suggested she was chosen for being a “cliché”.¹¹²

This report was drafted before the start of the 2024 Paris Olympics; however it must be noted that in preparation of the event, the International Olympics Committee (IOC) updated its framework for a fair representation of athletes from a gendered perspective.¹¹³ The document considers both the discrimination faced by women and LGBTI athletes, with a specific focus on trans and intersex issues, but fails in explicitly acknowledging the specific position of LBQ women.

Sexual violence, abuses, harassment

Harassment and sexual violence are unfortunately very common in the field of sport and has a specific impact for women and AFAB persons, as highlighted by the **Parliamentary Assembly of the Council of Europe**, in its resolution “The fight for a level playing field – Ending discrimination against women in the world of sport”.¹¹⁴ In the last few years, the issue of violence in sport has attracted a lot of public attention, thanks to many courageous athlete survivors who decided to speak out and tell their stories of violence, abuse and harassment. The #metoo movement in sport involved different European countries, including **Greece**, started by sailing champion Sofia Bekatorou.¹¹⁵

¹¹⁰ <https://www.juventusnews24.com/boattin-bacio-sembrant-mondiale-italia-svezia-femminile/>

¹¹¹ EL*C (2024): Annual report of the Observatory on lesbophobic violence and discrimination against lesbians - 2023

¹¹² <https://www.gay.it/gli-insulti-omofobi-a-paola-egonu-sono-la-gallery-che-non-volevi-vedere/7>

¹¹³ <https://stillmed.olympics.com/media/Documents/Beyond-the-Games/Gender-Equality-in-Sport/IOC-Portrayal-Guidelines.pdf>

¹¹⁴ PACE Resolution (2022), The fight for a level playing field – ending discrimination against women in the world of sport, <https://pace.coe.int/en/files/30258>

¹¹⁵ <https://www.aljazeera.com/features/2021/2/15/in-greece-an-olympian-leads-the-me-too-movement>

A **UN Women and UNESCO** briefing reports that 21% of female athletes experience violence at least once as children in sports,¹¹⁶ while 80% of the participants in an international survey (interviewing over 9500 athletes) had witnessed or experienced homophobia in sport. Among the survey participants that declared themselves as lesbians, 74% of them were completely or partially in the closet whilst playing youth sport, and not without reason: 18% of lesbians reported being bullied, 16% received verbal threats and 9% had been physically assaulted.¹¹⁷

The intersection of gender-based discrimination, the stigma of gender non-conformity, and heteronormativity exacerbates their vulnerability to such incidents.¹¹⁸ In a widely mediated clip during the Women's World Cup ceremony in Sydney, the former **president of the Spanish Football Federation**, Luis Rubiales, kissed Jenni Hermoso, Women's World Cup winner and lesbian, on the lips without consent. Following the public controversy that followed, Rubiales was forced to resign and was subject to disciplinary measures from FIFA authorities. He will be on trial in 2025 according to Spanish law, for sexual assault and coercion for the non-consensual kiss.¹¹⁹ Some States such as **Spain, the UK, and France** have adopted specific legislation on tackling violence in women's sport. To our understanding, however, this lacks a specific view on intersectional violence involving LBQ women.

Good practice: The Italian Guidelines on the protection of minors and preventing harassment in sport

In **Italy**, a set of law and rules that are being implemented by sports federations and organisations to combat violence. This system, which is provided by art. 16 of Legislative Decree n.39/2021, asks sport bodies at all level to draw up guidelines and implement models to protect minors and prevent harassment, gender violence, and discrimination based on gender, ethnicity, religion, personal beliefs, disability, age or sexual orientation. This model requires sport federations to adopt code of conducts, have people responsible for collecting reports, procedures for the prevention and for a quick response and related sanctions. It is a very interesting proposal, especially for the unitary consideration of different sources of discrimination, violence and harassment. There is concern among those involved that the sports field lacks the necessary preparation and knowledge to effectively implement this reform. For these reasons, activists and experts have expressed concerns that the reform should have been supported by extensive education and training initiatives on issues such as sexism, racism, and LGBTIQ+ topics.

Discrimination against trans and intersex women

The field of women's sports has also been affected by an ongoing public debate related to the participation of intersex and trans athletes participating in the women's category. Although the **International Olympic Committee** (IOC) recently issued a framework protecting the principle of self-determination and non-discrimination on the basis of gender identity and sexual characteristics in sports,¹²⁰ several federations have approved restrictive regulations, all based

¹¹⁶ UN Women and UNESCO (2023), Handbook on Tackling Violence Against Women and Girls in Sport

¹¹⁷ <https://outonthefields.com/media/>

¹¹⁸ EGLSF, EL*C, ILGA-Europe, OII Europe, TGEU (2021), LGBTI women in sport: violence, discrimination, and lived experiences

¹¹⁹ <https://www.theguardian.com/world/2024/jan/02/spanish-forward-jenni-hermoso-gives-evidence-in-court-luis-rubiales-kiss>

¹²⁰ IOC (2023), Framework on fairness, inclusion and non-discrimination on the basis of gender identity and sex characteristics <https://stillmed.olympics.com/media/Documents/Beyond-the-Games/Human-Rights/IOC-Framework-Fairness-Inclusion-Non-discrimination-2021.pdf>

on hormonal criteria, despite a lack of scientific consensus that higher testosterone levels create a physical advantage.¹²¹

It is important to recognise that these issues are deeply rooted in sexism, transmisogyny, lesbophobia, intersexphobia, and racial discrimination. Such regulations are in place for the women's category only and are based on stereotypical ideas on how women should perform, behave and look like in sport. The practice of sex verification was created immediately after women started competing in elite sports and started as a mandatory exam for every female athlete. Nowadays it has become a procedure that can be actioned against potential suspects of gender fraud. The declared aim is to ensure fair play and protect elite women's sport, but what is happening is that women belonging to the most marginalised groups (often BIPOC and/or non-heterosexual) are being targeted and subject to this scrutiny and forced either to undergo harmful invasive medical procedures or leave their career. The sex-testing procedures and the connected regulation on the participation of intersex and trans athletes in women's competitions, are embedded not only in intersexphobia and transphobia but also in lesbophobic, sexist, racist prejudices and creates hierarchies between women (the "real" ones, in need of protection, and the other ones, that must be contained and disciplined).

Lia Thomas, a US transgender swimmer, is being banned from participating in the 2024 Paris Olympics based on an **International Swimming Federation (ISF)** regulation, that prohibits trans women who had undergone puberty after Tanner stage 2 (around the age of 12) from competing. The US swimmer decided to challenge the regulation in front of the Court of Arbitration in Sport (CAS), which is based in **Switzerland**. In June 2024, the CAS dismissed Thomas' complaint for formal reasons.¹²²

Highlight: ECtHR, Caster Semenya v Switzerland

Caster Semenya's case, a long-lasting judiciary, mediatised, human-rights saga started in 2009, back when the **World Athletics (IAAF)** had no regulations in place for either trans or intersex athletes. After the decision from the **CAS** and the **Federal Supreme Court of Switzerland** to deny Semenya of the right to participate in the competition, the case reached the **European Court of Human Rights** and was decided in July 2023.¹²³ Judgement in front of the Grand Chambre is pending.

The ECtHR found violations of art. 14 in combination with art. 8 of the Convention recognising a discrimination on the basis of sexual characteristics, and clearly stating that intersex athletes were forced into "impossible choices" between bodily integrity and right to work. The Court also found a violation of art. 13, highlighting that sport justice needs to create transparent mechanisms and that sports cannot operate outside of international human rights standards.

Semenya's case clearly shows how sexism, racism, and lesbophobia are fuelling regulations on women elite category competitions in conjunction with intersexphobia and transphobia. Semenya's case was described as a situation of "inferential (lesbo)homophobia", as the suspicions of her performances were raised because she was judged "too masculine". During the first round of examinations, her sexuality, the fact of being an out lesbian and her private

¹²¹ C. Reale, A. Tuselli, (Un)ruley Bodies: Sex, Gender, and Race Inter-Actions in the Sport Field, AG AboutGender 2022, 11(22), 513-550

¹²² https://www.tas-cas.org/fileadmin/user_upload/10000_Arbitral_Award_for_publ_.pdf

¹²³ European Court of Human Rights, Semenya v. Switzerland 10934/21

romantic relationship were questioned and used to support her ineligibility in female competition, together with the form of her genitalia and the characteristics of her body.¹²⁴

The European Court of Human Rights failed in embracing an intersectional view of the case, neglecting both the issue of racism (raised in many third-party interventions, such as the UN or South African Human Rights Commission) and lesbophobia. The Court actually addressed the fact that Semenya's right to private life was violated as soon as she was regarded to be not "enough feminine" to join women's competition and that this might have compromised her personal identity, but failed in addressing the fact that this is connected to her sexual characteristics as well as with her race, sexual orientation and gender expression.

Recommendations

- I. Enhance data collection on leadership, violence and hate speech in sports that considers not only gender-disaggregated data, but also factors such as sexual orientation, sexual characteristics, gender identity and gender expression.
- II. Provide comprehensive training on gender inequalities, stereotypes, and LGBTI issues for all levels of sports, led by experts in gender equality within sports and in inclusive sports governance.
- III. Campaign to increase the visibility of women competing in sport and LBQ athletes and combat gender stereotypes in sport with a focus on lesbophobia.
- IV. Implement effective measures and develop protocols for sport associations, both at national and international levels, to counter hate speech, with specific mention of LBQ women.
- V. Hold online platforms accountable for monitoring and addressing hate speech, ensuring swift action against discriminatory content targeting LGBTIQ athletes.
- VI. Affirm the right to gender self-determination in sports, ensuring the physical integrity and rights of all women athletes are protected, including trans and intersex athletes.
- VII. Develop and enforce measures to combat harassment, discrimination and sexual violence with internal protocols and suitably trained internal reference figures, with specific mention of LBQ women.
- VIII. Implement measures to foster diverse and equitable representation in sports leadership.
- IX. Provide financial support for community-based initiatives that support the participation of LBQ women in sporting contexts.

¹²⁴ Byerly, C.M. (2019), Opinion: Inferential homophobia and the news discourse on Caster Semenya, in *Gender & Media Diversity Journal*, vol. VII, pp. 118-122

IX. RIGHT TO SEEK ASYLUM

The lived experience of LGBTI refugees/asylum seekers is embedded in the specific power dynamics of the European Union's asylum and migration systems, rooted in colonialism, racism and a heterocisnormative understanding of gender and sexualities. LGBTI refugee claims are often judged based on a narrow and Eurocentric understanding of homosexuality,¹²⁵ that is supposed to validate the credibility and authenticity of their request for protection. Their credibility is constructed around a Western idea on how LGBTI identity, which, for example, for gay, lesbian, and bisexual individuals include childlessness and independence from family. However, LGBTI refugees often experience more nuanced and complex situations of life especially when it comes to LBQ women, who might have been married to a person of the opposite gender or/and have children in the country of origin.¹²⁶ The system fails to take into consideration this complexity, and LGBTQI+ refugees often experience subsequent forms of violence in the hosting country/country of arrival, for example in an accommodation/detention setting (see section on Housing).

Within this framework, the experience of LBQ women and non-binary persons in the asylum system is even more jeopardised, and their stories, specific forms of oppressions and needs further overlooked. The asylum system for LBTIQ asylum seekers is shaped and primarily based on the homosexual male identity and experience, as are the guidelines of analysis for asylum officers and immigration judges.¹²⁷ Despite a glaring lack of data, activists' experiences show that this could be explained, for example, because of the smaller number of SOGIESC claims by women rather than men, or possibly even related to the lower number of women's claims in general.

The impact of gender on the experience of LBQ refugees and asylum seekers

Academic literature focusing on LGBTI asylum seekers has been fundamental to increasing the visibility of LGBTQI+ persons within Western asylum systems in particular, yet the experiences of LBQ women and non-binary persons remain almost untold and theoretically unframed.¹²⁸ The existing studies, for example, show that LBQ women and non-binary asylum claimants and refugees face specific challenges when trying to establish credibility around persecution on the basis of sexual orientation and gender identity in the context of the asylum assessment.

It must be considered how gender is a key element in LBQ refugees' and asylum seekers' experiences, that create a unique form of vulnerabilities and harms that cannot be explained otherwise.¹²⁹ Sexual orientation alone cannot explain the persecution experienced, which is connected to the fact that LBQ women are a group that is perceived to violate socially imposed gender norms. Nevertheless, LBQ women and non-binary people, as women or people perceived and socialised as such, experience gender subordination and oppression and are familiar with both state violence and coercion by family and community members.

¹²⁵ Sari, E. 2019. "Lesbian Refugees in Transit: The Making of Authenticity and Legitimacy in Turkey." *Journal of Lesbian Studies* 24 (2): 140–158.

¹²⁶ Tschalaer, M., & Held, N. (2019). *Queer asylum in Germany : better visibility and access to legal and social support needed for LGBTQI+ people seeking asylum in Germany*

¹²⁷ Stefanie C. Boulila (eds.) (2023), *Advancing Liveable Lives for Lesbians in Europe— Intersectional Challenges and Future Policymaking*

¹²⁸ Luibhéid, Eithne, ed. *Lives That Resist Telling: Migrant and Refugee Lesbians*. Routledge, 2021.

¹²⁹ National Centre for Lesbian Rights, *The Challenges To Successful Lesbian Asylum Claims*, https://www.nclrights.org/wp-content/uploads/2013/04/Resources_Challenges_Lesbian_Asylum_Claims.pdf

At the same time, it is the combination of gender, gender-nonconformity and non-heterosexual sexual orientation that creates such unique experiences of oppression. The violence inflicted on LBQ women is quite often based on the need to enforce compulsory heterosexuality (such as in the cases of so-called “corrective” rape). For example, the association LeTRa in **Germany** reports that lesbian mothers tend to see their applications rejected because decision-makers find their motherhood to be in contrast with their sexual orientation.¹³⁰ LeTRa’s internal statistics suggests that about 95% of their clients receive a rejection after their first asylum interview.¹³¹

In various contexts it has emerged how asylum systems fail in acknowledging all this factors: for example, many asylum cases are decided based on arbitrary and racist stereotypes and a lack of knowledge about the situation of LBQ women in their country of origin.¹³² It has been argued, for example, that bisexual women often see their application rejected merely because of their sexual orientation, as they are told they could make themselves invisible by opting for a heterosexual lifestyle such as heterosexual marriage.¹³³ This happens despite the **ECJ decision on the case X, Y, Z**, claiming that asylum seekers “cannot reasonably be expected to conceal their homosexuality in the country of origin”.¹³⁴

Highlight: Germany and black lesbian refugees and asylum seekers

In **Germany**, evidence suggests that the success of lesbian requests after the first interview is significantly lower compared to those of gay men, and this phenomenon penalises black lesbians in particular.¹³⁵ A case that received some media attention concerned Hope, a lesbian from Uganda. Her lesbianism was not considered explicit enough for her to receive asylum.¹³⁶ Hope had her first relationship with a woman at the age of 15 and after two years she was forced into a marriage with an abusive man to “correct” her sexual orientation. Hope managed to convince her father to let her continue her university studies at a university in Kampala, where she had a secret relationship with a woman for 10 years. In 2014, Uganda passed the law against homosexuality and in 2017 Hope and her partner’s apartment was raided. Her partner was injured and spent a week in police custody. After the accident Hope fled Uganda and arrived in Italy, where she was forced into prostitution and, in 2018, she managed to reach Germany. In August 2018, her claim was rejected on the grounds that her sexual orientation was considered to not be explicit enough to justify protection. The authorities doubted the 10 years long secret relationship of the applicant and found it suspicious that she was not engaging in sexual relationships in Germany. The authorities were also incapable of understanding the link between the applicant’s identity and the serious breach of human rights she experienced and were unable to frame her experience as connected both to her gender and her sexuality.

The authorities did not consider her experience as a survivor of forced marriage, marital rape, domestic violence and sex trafficking and were not considered in her claim for international protection. This case is a great example of the mechanism of the system in Germany, that—according to counsellors and researchers—rejects lesbian asylum seekers for three main

¹³⁰ Mengia Tschalaer (2023) Queer motherhood in the context of legal precarity: experiences of lesbian mothers seeking asylum in Germany, *Ethnic and Racial Studies*, 46:2, 233-253,

¹³¹ See: <https://www.lettra.de/en/>

¹³² Tschalaer, M., & Held, N. (2019). Queer asylum in Germany : better visibility and access to legal and social support needed for LGBTQI+ people seeking asylum in Germany

¹³³ Stefanie C. Boulila (eds.) (2023), *Advancing Liveable Lives for Lesbians in Europe— Intersectional Challenges and Future Policymaking*

¹³⁴ X, Y, Z, Joined case C-199/12 to C-201/12

¹³⁵ https://www.bristol.ac.uk/media-library/sites/policybristol/briefings-and-reports-pdfs/2020-briefings-and-reports-pdfs/Lesbian%20asylum%20seekers_EN_FINAL.pdf

¹³⁶ <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/black-lesbians-denied-asylum-germany/>

reasons: their reluctance to immediately identify as lesbian during hearings, their non-stereotypical lifestyles (including previous marriages and children), and their difficulty in constructing detailed narratives of pain and suffering, often due to trauma. The identity and life story of black lesbians seeking asylum in Germany simply does not fit with either the heteronormative views of motherhood and vulnerability or with the Western expectation of visible intimacy and love of LGBTI refugees' and for this reason, they risk being excluded from humanitarian international law protection.

The inability to move beyond stereotypical understandings of identities and failure in fully acknowledging the needs and lived experiences of applicants is also shown in the following example. This case offers a view on the paradoxical effect of such systems that in policing identities, this results in migrants re-experiencing the same trauma that they experienced in their country of origin and which led to them fleeing.

Highlight: Moldova and a bisexual trans asylum seeker's experience

A case reported to EL*C during the interviews concerned Alisa, a transgender bisexual woman with Russian citizenship, who applied for asylum in **Moldova** in November 2022 asking for protection on the grounds of sexual orientation and gender identity. In September 2023, during the interview for asylum, she mentioned, among other things, the Russian law against LGBT propaganda and the fact that there is no recognition of transgender people in Russia. Alisa has been in a relationship with a woman, a citizen of Moldova, for five years, which she also reported in an interview.

On May 14, 2024, Alisa was denied asylum. In the final decision seen by EL*C, Alisa is not recognised as a bisexual trans woman, her gender identity is not even mentioned, and she is described as a homosexual man. According to the authorities, Alisa does not face any threat to her life, safety or any persecution from the Russian authorities. Currently, Alisa has filed an appeal against the decision. This shows the complete inability of Moldovan authorities to correctly qualify Alisa's claim of international protection resulting in an improperly evaluated case. The paradox lies in the fact that, as long as Alisa is unable to change her legal gender in Russia, she is considering marrying her partner in Moldova, even if doing so would result in the cancellation of her appeal.

Recommendations

- I. Implement training programs for national decision makers, authorities and practitioners to contrast Eurocentric narratives on the lives of LBQ women and to be able to acknowledge the intersectional nature of the human rights violations and persecution they encountered, especially by recognising how sexual orientation, gender identity and gender expression and processes of racialization amplify the violence against women within families, community, and institutions.
- II. Ensure LBQ asylum seekers do not encounter gender, race, or sexuality stereotypes in their international protection claim (especially in their relationship with social workers, translators, decision makers, services providers etc.)
- III. Abolish detention for claimants of international protection, including LBQ asylum seekers.
- IV. Ensure that reception structures are sensitive towards the specific needs of LBQ women asylum seekers and ensure that robust mechanisms are in place to protect them from forms of gender-based violence, harassment and discrimination in reception structures.

- V. Provide safe accommodation structures to combat further isolation of LBQ women asylum seekers, including by implementing non-mixed settings, single room, LGBT-friendly housing.
- VI. Asylum authorities should produce statutory guidance on SOGIESC claims with a particular focus on LBQ women and their experience and with the direct involvement of refugees organisations and LBQ NGOs.
- VII. Ensure non-lesbophobic, biophobic, and transphobic interpretation services are available, that enable claimants to share their story without fear of further discrimination or violence by disclosing their identity.
- VIII. Provide specialised legal support for LBQ asylum seekers to ensure they have access to informed, culturally competent legal representation that understands the unique challenges faced by this group.

X. NATIONAL HUMAN RIGHTS STRUCTURES

National Human Rights Institutions (NHRI) play an important role in upholding the fundamental rights of LGBTI people; they were defined by the European Commission as a “core element in the system of checks and balances”.¹³⁷ Most of the countries are reported as having a mandate for their National Institution to address discrimination on the grounds of sexual orientation, gender identity and sexual characteristics.

The actual impact of the work of the institutions depends on the mandate conferred to it, considering that the competences vary a lot from country to country (e.g. researching, human rights education and inclusive representation, receiving complaints, verifying and punishing cases of discrimination, initiating judicial proceedings etc.) For example, in **Serbia** in 2023 the Ombudsman publicly encouraged the LGBT population to report discrimination, recognising the difficult position of this population.¹³⁸ Serbian activists however pointed out to EL*C how this institution is carrying out an important role in raising public awareness and supporting LGBTI people’s rights, but it lacks effective mechanisms to enforce anti-discrimination laws or implement concrete initiatives, such as training on SOGIESC issues for the judiciary.

Many NGOs report having a positive dialogue with such institutions, even in the most conservative countries - these structures and their independent procedures represent precious occasions for institutional collaborations. From the perspective of LBQ women, it is important to assess whether these bodies manage to elaborate an intersectional understanding of discriminations and how – this aspect is currently not known.

For example, in **Switzerland**, the situation varies from canton to canton. At the federal level, the Federal Bureau for Equality has a mandate to defend women’s rights, and this mandate will be expanded in 2024 to include LGBTI issues. In **Croatia**, the Ombudswoman for Gender Equality regularly points out discrimination based on sexual orientation, gender identity and/or gender expression. The Ombudswoman for Gender Equality has a specific mandate to monitor and raise awareness on LGBTI issues. Croatian NGOs report a promising collaboration and dialogue: as both the Ombudswoman and the Ombudswoman for Gender Equality gladly respond to invitations to specific actions and events. These institutions are very active in encouraging reporting of LGBTI hatred-based crimes. Interestingly in **Armenia**, for example, in cases of individual applications, the Ombudsperson can connect with law-enforcement bodies to stop any violation of human rights, and in some cases, this measure effectively works.

Good practice: The collaboration between the Ombudsman and Pink Armenia

The Ombudsman has included cases of violence and discrimination on the grounds of SOGI documented by Pink **Armenia** during 2023 in its annual report published in 2024. This is the testimony of an important and ongoing collaboration between civil society actors and some institutions, which is particularly precious in times of backsliding. This exchange results in a relationship of mutual support and helps with the goal of reaching common objectives.

Unfortunately, the Armenian NHRI is currently facing attacks and threats by political actors for its work protecting the human rights of marginalised individuals (e.g. the LGBTQ+ community).

¹³⁷ 2023, European Commission, Annual rule of law report <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52023DC0800>

¹³⁸ <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/7864-p-sh-lic-lgb-i-s-b-p-r-bn-p-drsh-d-s-br-z-sh-i-ni-u-gr-d-n>

This issue was raised by the European Network of National Human Rights Institutions, who issued a statement to support the work by the Armenian NHRI.¹³⁹

The current situation in Armenia mirrors one of the potential issues related to the effective independence of this institution and the threat they face with illiberal governments. For example, **Turkey** established the Human Rights and Equality Institution of Turkey (HREIT) in 2016. However, this development coincided with a simultaneous erosion of human rights and freedom in the country, leading the institution to adopt a conservative approach toward human rights. According to some scholars, the HREIT is prioritising state security over human rights and undermining women's and LGBT+ rights.¹⁴⁰

Recommendations

- I. Ensure that NHRIs have an explicit mandate to address discrimination based on SOGIESC grounds in addition to gender, disability, race, ethnicity and others.
- II. Collect reliable, disaggregated and transparent data on the types of cases handled by NHRI yearly.
- III. Grant NHRIs the authority to issue opinions on drafts of law related to equality and non-discrimination.
- IV. Foster the dialogue between NHRI and others institutional actors, creating mutual trust and accountability while ensuring the independence of the human rights institutions.
- V. Strengthen the communication and information exchange between civil society organisations and NHRIs to ensure that grassroots perspectives are integrated into national efforts for the protection of human rights.
- VI. Equip NHRIs with the knowledge and tools to recognise and address intersectional discrimination and implement an intersectional approach (e.g. in cases of LBQ women).
- VII. Safeguard the independence of NHRIs to ensure they can operate free from political pressures and provide them with adequate financial and human resources.
- VIII. Establish regular monitoring and evaluation mechanisms to assess the effectiveness of NHRIs in addressing SOGIESC-related discrimination and human rights issues, ensuring continuous improvement and accountability.

¹³⁹ <https://ennhri.org/news-and-blog/ennhri-speaks-out-in-support-of-the-armenian-nhri-following-threats-and-attacks/>

¹⁴⁰ Kayaoğlu, T., & Gülel, D. (2023). National human rights institutions and the appropriation of human rights: the case of the human rights and equality institution of Turkey. *Australian Journal of Human Rights*, 29(2), 354–374. <https://doi.org/10.1080/1323238X.2023.2295821>

XI. MULTIPLE DISCRIMINATION

The experience of LBQ women per se can be understood only if we adopt an approach capable of considering different identities. According to the Recommendation, States must take into account multiple discrimination, understanding how different factors may create additional layers of discrimination. Since 2010 in the legal domain, a new mindset has spread to support the use of the notion of intersectional discrimination rather than multiple discrimination. These terms should not be considered as synonyms.

The concept of “intersectionality” is a collective theory coming from Black feminism, but the concept itself was developed by Crenshaw in 1989, in order to analyse the effectiveness for black women US anti-discrimination law. Intersectionality suggests that the experience of black women is not the mere sum of discrimination coming from gender and race, rather, these factors combine to create a unique form of oppression that cannot be separated into distinct categories. Intersectionality, which was then extended to other social claimed identities and factors of marginalisation, is an anti-essentialist tool, that considers that gender, race, class, sexuality, (dis)ability and age make sense if addressed as part of social power-relations producing material inequalities.¹⁴¹ Intersectionality is not a neutral concept; it is a powerful instrument used to dismantle societal power dynamics and advance social justice. It simply has an implication that the very notion of multiple discrimination does not have.

Although the notion of intersectionality was born in the legal field, the effort of incorporating it into law and policy is very recent. At **EU level**, for example, in the last few years intersectionality is being increasingly mentioned in several acts, such as the **Gender Equality Strategy**, the **LGBTI Equality Strategy** and for the first time the concept was used in secondary law, namely in the new **Directive on Pay Transparency**.¹⁴² At the national level, States are still struggling to incorporate intersectionality in their legislation and policy, and judges often fail to take into account this paradigm when applying existing norms.

As mentioned earlier, the 2010 Recommendation, while acknowledging multiple discrimination, failed to adequately address the specific experiences of LBQ women. This oversight is also evident in the monitoring mechanisms, which show a lack of focus on gender. Very few parts in the questionnaire sent by the CoE Steering Committee on Anti-discrimination, Diversity and Inclusion take this variable in consideration, while only a couple explicitly mentioned lesbian, bisexual and trans women. EL*C is especially concerned that women of the LGBTI community were not explicitly included in the questions on multiple discrimination.

As this report shows, the experience of LBQ women, on the contrary, can only be understood by fully adopting an intersectional lens. The first step is to acknowledge that lesbians live across and navigate gender discrimination, gender norms and heteronormative societies. Then, it must be acknowledged that lesbians themselves are not a homogenous group and have differed lived experiences based on other factors such as race, age, class, disability, and religion that often play a crucial role in understanding (and eventually tackling) their discrimination and oppression. For this reason, throughout the report we have strived to provide examples and cases that represented a wide diversity of LBQ experiences, while acknowledging the limitations posed by

¹⁴¹ Collins, P. H. , & Chepp, V. (2013). Intersectionality. In Waylen G., Celis K., Kantola J., & Weldon S. L. (Eds.), Intersectionality. Oxford University Press.

¹⁴² Directive (EU) 2023/970 of the European Parliament and of the Council of 10 May 2023 to Strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms

legal, administrative and societal systems that tend to prefer “silo approaches” when dealing with discrimination, violence, hate crime and hate speech.

Lesbian organisations are fully aware of this paradigm. It is useful to share some of their projects and activities that implement intersectionality, to show how this concept can be practically applied.

Good practices: intersectional approaches in LBQ NGOS

The collective “Mille et une lesbiennes et queer”¹⁴³ in **France** brings together LBQ women and non-binary people from “Arab” backgrounds or those perceived as such. The collective’s goal is to raise the visibility of the existence of queer, lesbian, bisexual and trans Arab people and celebrate multiple identities and create positive role models for queer immigrants. The group also explicitly fights against homo-nationalism, femo-nationalism and islamophobia in the context of France.

The project Romnja Feminist Library¹⁴⁴ is an online platform and originated from the work of activists in **Spain** and **Romania**, focusing on the past, present, and future of Roma Feminism. It emerged from acknowledging the systemic lack of recognition for Roma women and girls as knowledge producers. The project aims to create spaces for Romani women and girls, giving visibility to Romani writers, researchers, activists, and students who face challenges in publishing their work in a predominantly white, male industry. One of their key products is the Romnja Magazine, a platform for new knowledge production by Roma women and girls.

In **France**, Les Devalideuses¹⁴⁵ is a feminist queer-friendly collective of people with disabilities. The group want to combat the erasure of disabled women in feminism and denounces and fights against this with their experiences of ableism and sexism. They have several activities and projects of different natures, from educational to political actions.

In **Germany**, Lesben und alter¹⁴⁶ is a network of organisations devoted to the support of elder lesbians and other queer people. The network aims at raising awareness of the specific life situation of older and elderly lesbian women and represent their interests in society, the media, politics and associations. They are engaged in several activities, such as policy and consultation, researching, public disseminations events and many others.

In **Latvia**, the NGO Active Rainbow works with LBTQ youth aiming to increase LGBTI participation in Erasmus+ programs. They are also focusing on digital projects, creating safe spaces, mentoring, and youth exchanges.

In **Italy**, projects such as Liberas¹⁴⁷ and Linea Lesbica Antiviolenza¹⁴⁸ adopt a feminist, transfeminist approach to tackle violence against lesbian, bi and trans women and non-binary persons and in lesbian/queer intimate relationships.

In **Spain**, Artemisa Migrantes y Refugiadas offers community-based services for migrant women together with a space for self-reflection.

¹⁴³ <https://milleetunequeer.wordpress.com/about/>

¹⁴⁴ <https://romnjafeministlib.com/library>

¹⁴⁵ <https://lesdevalideuses.org/>

¹⁴⁶ <https://www.lesbenundalter.de>

¹⁴⁷ <https://assoziazioneliberas.org>

¹⁴⁸ <https://www.casadonne.it/linea-lesbica-antiviolenza/>

In **Estonia**, the NGO Q-Spacefocuses is focused on queer migrants from Russia by organising online activities and publishing articles about queer films and culture, with the main goal of increasing connections, fighting isolation and organising educational and community events.

Recommendations

- I. Advocate for the incorporation of the concept of intersectional discrimination into law and policy, replacing the current focus on multiple discrimination.
- II. Allocate public funding and resources to grassroots initiatives and community-based services led by LBQ women that implement an intersectional paradigm and tackle specific forms of social marginalisation.
- III. Develop and implement comprehensive training programs for public authorities to be capable of adopting an intersectional paradigm in deciding cases of violence, harassment, discrimination and applying already existing norms.
- IV. Design and deliver training programs for public officials and social service providers that focus on intersectional discrimination and best practices for supporting LBQ women and non-binary individuals.
- V. Advocate for the inclusion of LBQ women with diverse identities (e.g., race, disability, socioeconomic status) in policy-making bodies and decision-making processes to ensure that their unique perspectives are considered in the creation and implementation of laws and policies.

Conclusions

This shadow report by EL*C focused on the experience of LBQ women within the different areas covered by CM/REC (2010)5. **The report focused** on highlighting the specific issues encountered by LBQ women when accessing their human rights and the **specific consequences of the interplay between** societal violence and discrimination related to **gender**, as well as bias and stigma derived from **non-conforming sexual orientation and gender expression**. While the report covers a wide range of issues, it is also possible to **draw some general conclusions** from the information presented here.

The **lack of data** on the lived experience of LBQ women appears to still be a substantial problem and relevant obstacle in policymaking on LGBTI rights and gender equality. As reported many times by EL*C, **the gaps in research** and data collection **are simultaneously one of the causes and one of the consequences of the more general erasure** of the experience of **non-heterosexual women in society**. It is a vicious circle in which the lack of data fuels the lack of policies, and the lack of policies causes the trivialisation of lesbian experiences in research. For this reason, it is urgent that in all the areas covered by the Recommendation, **serious investments are made at all levels to increase, improve and support the collection of data and research focusing on LBQ women**. It is particularly important that more resources are dedicated to investigating the impact of other intersecting identities within the LBQ community including the impact of race, socio-economic disparities, disability, age and others.

The few specific references to the women of the LGBTI community **and the lack of mention in the section on “Multiple discrimination”** within the monitoring questionnaire produced by the Steering Committee is **a symptom of a deeply rooted problem in policymaking in the field of LGBTI rights**. In order to understand and effectively address the needs of all members of this community, it is **indispensable to not ignore the impact of gender inequalities** on the lived experience of women and people perceived and socialised as such. The LGBTI community is not immune to social dynamics, discrimination and violence that stem from sexism and misogyny as much as it is not immune to racism, classism, ableism and ageism.

All EL*C members involved in the development of this shadow report **stated not having been contacted nor involved by national authorities** for the preparation of the national reports. This is exemplary of the general **disregard** of the **specific expertise of LBQ organisations** by public authorities who underestimate dialogue with civil society and, even when engaging in it, **prefer to refer only to generalist LGBTI organisations**. An effective dialogue with civil society requires the involvement of as many voices as possible, and specific efforts need to be made in order to involve those organisations that are lead and focused on the under-represented members of the LGBTI community, including LBQ women specifically.

Many of the **good practices** presented in this report derive **from the work of grassroots civil society organisations**. It is clear that **despite a staggering lack of funding** and the **limited access to policymakers**, LBQ organisations are able to serve their community, address intersectional needs and provide data and information concerning the lived realities of the women of the LGBTI community. **This expertise should be supported by public institutions and appropriately considered** when developing policies concerning gender equality and LGBTI rights. Additionally, this expertise and the work of LBQ organisations needs resources in order to be sustainable. EL*C is forced to **once again recommend an urgent increase of funding dedicated to support LBQ lead and focused organisations**, including by considering the women of LGBTI community among the **target groups of funding programmes** dedicated to equality, anti-discrimination and human rights.

The fact that it was **almost impossible to find good practices from public authorities** and institutional actors is another symptom of the **lack of intersectional approach within national policies** concerning LGBTI persons' and women's rights. An area where improvement is possible and urgently needed concerns **the training of public officials**. In almost every area and section of this report, increasing gender awareness and SOGIESC sensitivity of public figures, as well as deepening their understanding of lesbophobic bias, would be a key preventive step in countering institutional discrimination, stereotypes and prejudices.

This relates to the worrying evidence that has emerged when considering the issue of **access to justice** both when it comes to survivors of violence as well as to victims of discrimination. Because of the risk of **encountering bias, secondary victimisation and violence by public officials, LBQ women have a very limited trust in public authorities** and in the effectiveness of the remedies for human rights breaches. It is necessary to urgently address this issue and to **put an end to the many instances of institutional violence** that emerged from this report, especially against more marginalised members of the community. As mentioned above, training is key, as well as **building credible accountability systems** when such forms of institutional violence are committed. The involvement of the directly affected persons and of all members of the LGBTI community is fundamental in defining strategies that are effective, implementable and inclusive.

This report has clearly shown that a lot is still to be done to ensure the full enjoyment of the human rights of LBQ women, in all the areas covered by the Recommendation. Each section of the report includes detailed recommendations on how to address the issues that emerged from the data collection.

EL*C, as the network representing over 150 LBQ lead and focused organisations in Europe, **stands ready to collaborate and to partner with national actors willing to make their policies and strategies fully inclusive** of the lived experiences and expertise of lesbian, bisexual, queer women and non-binary people.