EQUALITY



Professionally speaking: challenges to achieving equality for LGBT people

FRA EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

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EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

Professionally speaking: challenges to achieving equality for LGBT people

Foreword

Lesbian, gay, bisexual and transgender (LGBT) people commonly face obstacles in their daily lives: at the doctor's, at school or simply walking hand-in-hand on the streets. They are often bullied in classrooms or publicly attacked for simply being gay, lesbian, trans or bisexual. Frequently they do not report incidents of hate crime or discrimination, partly out of lack of trust for the respective authorities.

These findings highlight the need to look closer at the role public officials, and other professionals in education, healthcare and law enforcement, play in ensuring that everyone's fundamental rights are protected and promoted. These are the 'frontline officers' that are in daily contact with people, including LGBT persons.

This research focused on the drivers and barriers such frontline officers face when doing their job. It was the first time ever that public officials, teachers, doctors, nurses and law enforcement officers in 19 EU Member States were interviewed about their experiences and views on efforts to protect and promote the rights of LGBT people. It sheds a light on what works and what does not, on the drivers and barriers to implementing policies and measures that promote diversity, and fighting discrimination and intolerance on the grounds of sexual orientation and gender identity.

The findings underline the commitment many professionals show in improving the situation for LGBT people. Training and promising practices in a number of Member States reveal positive changes towards the full respect, protection and promotion of equality and non-discrimination for LGBT people. Respondents in all Member States stressed that EU legislation and policies on fundamental rights are the main driving force for further improvement and change in their countries. They considered EU actions as supporting them in performing their duties better and in having a meaningful positive impact on the lives of LGBT communities.

The findings also point to problems. For example, some law enforcement officials do not recognise, or underestimate, the scale and nature of homophobic and transphobic hate crime incidents. In most EU Member States, respondents argued that objective information about sexual orientation and gender identity is not part of school curricula or that training for medical professionals is lacking. The research also shows that there are still quite a number of healthcare professionals in several EU Member States who believe LGBT people suffer from pathological diseases.

Such findings have a negative impact. They prevent professionals from performing their tasks appropriately. As a result, LGBT people are still unable to enjoy their rights and freedoms under EU law on an equal footing with others.

While the List of Actions to advance LGBTI equality – presented by the European Commission in December 2015 – can help resolve some of the issues raised in this report, efforts by Member States' authorities and associations of police, education and healthcare professionals are particularly crucial. Support from regional and local authorities, as well as cooperation with civil society and national human rights bodies, are also vital to keep pushing towards making discrimination against LGBTI people a thing of the past. I hope this report encourages all actors to contribute to that process.

Michael O'Flaherty
Director

Country codes

Country code	EU Member State
AT	Austria
BG	Bulgaria
DK	Denmark
EL	Greece
ES	Spain
FI	Finland
FR	France
HR	Croatia
HU	Hungary
IE	Ireland
IT	Italy
LT	Lithuania
LV	Latvia
MT	Malta
NL	Netherlands
PL	Poland
RO	Romania
SK	Slovakia
UK	United Kingdom

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Executive summary

FRA's European Union-wide survey on discrimination against lesbian, gay, bisexual and trans persons (EU LGBT survey), published in 2013, showed that LGBT persons across the EU often feel discriminated against. Many have also experienced hate crime even though legislation and policies protecting them from discrimination and criminal victimisation are in place across the EU. In fact, in the last decade, some Member States have further strengthened their legal arsenal for the protection and promotion of equality and the rights of LGBT persons. But how can law and policy be effectively implemented on the ground to achieve a tangible impact on people's lives?

To respond to this question, often raised by EU and national policymakers, and provide useful evidence-based advice, FRA conducted large-scale interview-based research to identify barriers and drivers in the implementation of existing legal and policy provisions on the ground. FRA interviewed 1,039 public officials and professionals in 19 EU Member States: Austria, Bulgaria, Croatia, Denmark, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Poland, Romania, Slovakia, Spain and the United Kingdom. These included policy officers responsible for designing and/or implementing national equality policies related to the rights of LGBT persons (194), law enforcement officers (266), education professionals (277) and healthcare practitioners for LGB (256) and trans (46) persons.

LGBT persons and fundamental rights

A number of legal and administrative frameworks – cutting across several areas and jurisdictions such as EU law, international human rights commitments, national and local laws and regulations, and administrative practice – refer to the protection of fundamental rights for LGBT persons. The principle of equal treatment is a fundamental value of the EU, EU law, directives and the European Convention of Human Rights (ECHR).

The FRA report *Homophobia, transphobia and discrimination on grounds of sexual orientation, gender identity and intersexuality. Comparative legal analysis – 2015 update* provides comprehensive insight into such frameworks and the legal bases for the implementation of policies. This report presents public officials' and professionals' views on and experiences with implementation in 19 EU Member States.

The results show that although legal and policy responses have been implemented in recent years prejudice and intolerance against LGBT people persist. This affects the efforts of respondents in their function as 'duty bearers' to implement relevant equality policies effectively. More specifically, the research found that many public officials and professionals made serious efforts to provide high-quality public services to LGBT persons. The overwhelming majority of the respondents emphasised that the EU-level legislative and policy framework against discrimination and promoting equality has functioned as the main driver for change, and as an important source of inspiration for designing, adopting and implementing national legislation and policies and improving the situation on the ground. At the same time, many respondents also maintained that intolerant public attitudes and an unfavourable political climate undermined their work. In parallel, several respondents – including healthcare practitioners – themselves expressed negative views towards LGBT persons, in some cases even deeming homosexuality a disease. In some Member States, respondents indicated that individuals with homophobic and transphobic views often refer to the 'foreign nature' of homosexuality, considering it foreign to their notion of 'national identity'.

Respondents also noted that information and awareness about the rights and needs of LGBT persons is lacking, affecting their ability to deal effectively with phenomena such as hate crime, bullying and exclusion from public services. To tackle this issue, respondents asked for continuous training on the rights and needs of LGBT persons in the contexts of education, healthcare and tackling hate-motivated crime. Some already seek training programmes on their own initiative to help them provide public services in a more responsive, aware and competent manner.

In almost all Member States covered by the research, respondents referred to resource constraints due to cuts resulting from the economic crisis and its effects on public services in recent years. This is considered a challenge to the effective implementation and coordination of relevant public policies.

How can EU institutions and Member States make use of the report's results?

This research provides a wealth of evidence that can help EU institutions and Member States identify the main drivers and barriers affecting the implementation of policies that combat discrimination and promote equal treatment of LGBT persons in the Union. In doing so, it supports the development of more effective, evidence-based and better-targeted legal and policy responses to ensure that fundamental rights of LGBT persons are protected.

Key findings and FRA opinions

Key findings

- Respondents see prevailing negative social attitudes and stereotypes as a major barrier to tackling discrimination and hate crime against LGBT persons. They also affect the actions of public officials.
- In most countries, respondents maintain that there is a lack of objective information about sexual orientation and gender identity in school curricula, which can affect social attitudes.
- Many respondents, including healthcare professionals, perceive homosexuality as a pathological condition or disease. This can undermine efforts to protect and promote the fundamental rights of LGBT persons.
- A number of respondents consider homosexual orientation and trans identity to be 'foreign' and not in line with the prevailing notion of 'national identity'. Such prejudice can lead to shortcomings in public service provision and intolerant behaviour that can prevent the implementation of legal and policy provisions promoting diversity.
- The interviews show that the lack of awareness, information, data, resources and capacity in respect of the rights of LGBT persons is reinforced by those persons' relative invisibility. This affects the successful implementation of equality policies because officials and professionals are not sufficiently aware of the problems and needs of LGBT people and consequently may not see the need to develop adequate responses.
- Respondents also point to the need for systematic capacity building, training and awareness raising on the rights and needs of LGBT persons in the areas of education, healthcare and law enforcement. Many respondents mention their individual efforts to find information and relevant training to improve their own ability to implement LGBT equality policies effectively.
- In general, respondents see EU law and policy as major drivers supporting national efforts to promote LGBT equality, although in several countries respondents claim that national provisions are not always effectively implemented on the ground.
- In some EU Member States, respondents underline differences between urban and rural areas in implementing LGBT equality policies.
- Respondents point to various administrative and societal factors that function as drivers for the successful implementation of LGBT equality policies, including adequate resourcing, media campaigns and positive coverage, strategic litigation, supportive public opinion, cooperation with LGBT civil society organisations and political will, as well as the individual efforts of public officials and professionals.
- At the same time, respondents point to barriers, which include prevailing negative social attitudes, a lack of resources – especially in countries affected by public finance constraints – and a lack of effective operational coordination of key actors.

LGBT equality policies and public officials

Respondents identified different structures that support the implementation of equality policies at various governance levels, such as special committees and mechanisms, and liaison and cooperation networks. The responses of some policymakers show support and commitment to ensuring that LGBT persons enjoy fundamental rights in the same way as other members of society. There is also evidence of good working relationships between some government actors and representatives of LGBT communities.

Main drivers for LGBT equality

The research findings reveal that relevant EU law and policy – such as the anti-discrimination legislation promoting equal treatment in employment – has functioned as a driving force for the design, adoption and implementation of equality policies in the EU Member States. Strategic litigation is an important means of promoting LGBT equality policies, according to respondents in some EU Member States. Other factors identified as important across many Member States are supportive media coverage of LGBT issues, positive public opinion, cooperation with civil society organisations advocating for and/or supporting the rights of LGBT persons, support by political leaders and influential opinion makers, as well as the availability of adequate funding for implementing equality policies.

Main barriers to LGBT equality

Some of the respondents express concerns that EU legal and policy standards are not met in the area of fundamental rights of LGBT persons. In one group of

countries – namely Bulgaria, Croatia, Finland, France, Greece, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Romania and Slovakia – public officials indicate that an adverse social climate and occasional political opposition forms an important barrier to the effective implementation of national equality legislation and policies. In these Member States, lack of awareness about the fundamental rights of LGBT persons is quite common among many interviewees, who also report widespread prejudice against LGBT persons in their country. In a second group of EU Member States, including Denmark, Ireland, the Netherlands and the United Kingdom, there is evidence of a more supportive public climate and some systematic implementation of duties to ensure access to services, although there are still cases of poor practice. In a few EU Member States, including Austria, Spain and Italy, the regional variations appear to be very wide, with evidence of some poor practices and some promising ones – such as positive measures, special bodies and mechanisms, or policies and strategies for the implementation of policies.

Overall, the interviews show that the barriers to fulfilling the fundamental rights of LGBT persons relate to intolerance and prejudice, especially in countries where homosexual orientation and trans identity are considered 'foreign elements' that are not compatible with 'national identity'. Other barriers include lack of resources, infrastructure, coordination, and individual and institutional capacity.

Link between discrimination and invisibility

The responses of the interviewed duty bearers indicate that the invisibility of the LGBT population influences the actions of officials and professionals, who often respond that they are unaware of the fundamental rights challenges LGBT people face. As a result, they consider initiatives targeted at LGBT persons to be 'special' measures that address the needs of a very small number of persons. At the same time, policy officials in these countries genuinely worry about provoking a backlash if they too ambitiously and openly address human rights protection for LGBT people in societies where the issue remains a taboo or is not acknowledged.

General versus specific equality policies

A key challenge in ensuring respect for LGBT persons' fundamental rights is balancing targeted interventions that focus on LGBT people with generic interventions that address the general population. In many EU Member States, public officials and professionals working in the areas of education, hate crime and healthcare generally disfavour policies that specifically address LGBT persons' fundamental rights issues. A substantial proportion of public officials supports measures to tackle discrimination against LGBT persons but think this could be done through generic plans, including sectoral ones such as anti-bullying policies. In some EU Member States – often dealing with severe public finance problems – policy officials are concerned about triggering homophobic backlashes if they strongly emphasise LGBT issues, making it particularly hard to justify any targeted provision.

On the other hand, public officials specialising in areas such as equality and fundamental rights show considerable support for targeted interventions. The policymakers and practitioners who have considerable experience with LGBT issues discuss the need for different types of approaches, depending on the situation. Some officials see national LGBT action plans as beneficial, but they stress that these need to be commensurate with action plans relating to other groups who are not able to enjoy their fundamental rights.

Awareness about fundamental rights challenges LGBT people face

Respondents in many EU Member States are aware of the particularly severe discrimination trans persons face. Some respondents indicate the legal obstacles to respect for fundamental rights of trans persons; for example, they are concerned that some EU Member States have insufficient legal protection against discrimination on the ground of gender identity. They also highlight difficulties concerning divorce and gender reassignment surgery as preconditions to rectifying the recorded sex or altering a name on official documents.

There is less awareness among respondents about the fundamental rights challenges bisexual persons and lesbian women face. Bisexual women and men are particularly invisible populations, so respondents do not easily see them as requiring protection from discrimination. The public officials also emphasise that LGBT persons who live in rural or small-town localities face particular challenges.

Education

The EU LGBT survey findings revealed widespread bullying of LGBT persons at schools in all EU Member States. Reflecting this, the majority of educational professionals say they are aware of discrimination and prejudice on the grounds of sexual orientation and gender identity in educational settings, ranging from verbal abuse to severe bullying. These professionals stress that many Member States lack policies and implementation mechanisms which tackle the discrimination LGBT students face. Where anti-bullying measures are in place, these are often generic and can be ineffective in dealing with bullying on the specific grounds of sexual orientation or gender identity.

Some EU Member States have adopted promising policies in education that are targeted at tackling discrimination against LGBT persons. However, these positive developments are not systematic or spread evenly across the 19 Member States where the research was conducted. Some interventions related to the fundamental rights of LGBT persons are integrated into wider policies. Promising practices include diversity and anti-bullying policies in place in some Member States, as well as implementation mechanisms, curricula and frontline work. Some of the educational professionals interviewed for this project are highly aware that LGBT students face discrimination and reported taking proactive measures to ensure that they have equal access to education. In addition, it was stressed that educational measures aiming to support LGBT persons come too late, because homophobic and transphobic bullying can start when children are very young.

In most EU Member States, respondents argue that objective information about sexual orientation and gender identity, and about the fundamental rights of LGBT persons, is not included in school curricula. Half of the education professionals interviewed in Romania suggest that homophobic remarks and religious precepts about homosexuality are the only ways that LGBT issues are dealt with in many schools. In a few Member States, respondents refer to the disturbing phenomenon of discrimination against teachers who are themselves LGBT. A minority of the educational professionals interviewed express views characterised by elements of homophobia, biphobia and transphobia.

Teachers and school staff stress that they would need training to improve their capacity to deal with this situation. The interviews and the self-assessment of skills by education professionals show that lack of training about the fundamental rights of LGBT students poses a major problem. Lack of capacity and specific training is also related to the low levels of awareness among professionals and thus their lack of capacity to effectively confront discrimination on the grounds of sexual orientation and gender identity at school. The invisibility of LGBT students who hide or disguise their sexual orientation or gender identity may influence those educational professionals who do not see a need for action to address discrimination against LGBT students.

Law enforcement

Interviews with law enforcement officers and policymakers at central government level reveal major barriers to tackling hate crime against LGBT persons across the EU. The Victims' Directive (2012/29/EU), adopted in 2012, requires an individual protection needs assessment that takes into account the personal characteristics of the victims and the type of crimes committed against them. The research findings show that law enforcement respondents in many EU Member States often lack awareness about the discrimination LGBT people face and have insufficient knowledge of their vulnerability to hate crimes. This issue appears to be more pronounced in Member States in which the legal and policy framework for victims' rights is less developed. There were reports of prejudice against LGBT persons among law enforcement institutions in some Member States, and of prejudice being part of organisational cultures. Some of the law enforcement officers interviewed actually deny the very existence of hate crimes against LGBT persons and reject the need for interventions to support LGBT persons. Many Member States lack systematic and effective training for law enforcement officers to deal effectively with hate crime affecting LGBT persons, partly because of resource constraints.

Law enforcement professionals in a few EU Member States (Austria, Croatia, Denmark, Ireland, the Netherlands and the United Kingdom) report promising practices concerning national policies and initiatives to ensure that LGBT persons can live free from hate crime and discrimination. These include guidance, training and cooperation between law enforcement agencies and LGBT communities to make sure that LGBT persons are able to access public spaces safely.

Healthcare and LGB persons

In a few EU Member States, respondents highlight a number of promising policies specifically to improve LGB persons' equal access to healthcare and to address their particular healthcare needs. In some cases, such policies are integrated into wider policies to improve access to healthcare. Healthcare respondents generally report that their aim is to treat LGB persons the same way as everyone else. They also speak of efforts to enable LGB persons to be open about their identity and to include their same-sex partners in medical processes in the same way as opposite-sex partners.

In some countries, including Bulgaria, Hungary, Italy, Latvia, Poland, Romania and Slovakia, respondents working in healthcare indicate that many healthcare professionals still see homosexuality as a pathological issue. Some medical training material still pathologises homosexuality.

The respondents indicate directly prejudiced behaviour towards LGB persons only in a minority of healthcare settings. They also stress that in many of the EU Member States where the research was carried out, there are insufficient measures to ensure that LGB persons have full access to healthcare; for example, they lack specific policies, awareness campaigns and measures in areas such as sexual healthcare and mental health. The lack of anti-discrimination legislation, political support, infrastructure, resources and training is reported to undermine LGB persons' access to healthcare in some

Member States. As with other sectors, the hidden nature of the LGB population and a lack of evidence about specific healthcare needs of such populations may mean that healthcare professionals do not acknowledge the problem and that there are no targeted interventions to support LGB persons' right to health.

Healthcare and trans persons

In 2014, FRA published a report on its EU LGBT survey's findings about being trans in the EU. Similarly, the qualitative research on public authorities focused on the specific issues of policy implementation and the protection of trans persons' rights by duty bearers.

Specialist services for trans persons are spread unevenly across EU Member States and are completely unavailable in some. In countries where healthcare professionals who provide services to trans persons are available, the interviews show that medical professionals are highly specialised and aware of the discrimination trans persons face. Respondents indicate positive examples of cooperation between trans civil society organisations and healthcare providers. Debates on the healthcare of trans persons are ongoing and vary across the EU. In a number of Member States, respondents identify promising practices regarding the depathologisation of trans persons. In a few EU Member States, there is a positive shift towards support for all gender-diverse persons.

Healthcare professionals who provide services to trans persons argued that discriminatory practices in healthcare are limited to a few professionals, mainly general practitioners or gynaecologists with no experience in providing services for trans persons. This may demonstrate a lack of capacity of some frontline practitioners to address gender diversity. The respondents argue that this situation is also marked by restrictive legislation in many EU Member States, including legislation that requires sterilisation and/or divorce before a trans person can modify identity documents or change their name.

The respondents indicate that medical school curricula and other training for health professionals rarely include information related to trans persons.

FRA opinions

This research shows that there is a need to strengthen the awareness of public officials regarding discrimination against LGBT persons, and their capacity to guarantee and promote equality while combating such discrimination. Existing legislation and policies need to be further supported by concrete actions to transform legal obligations into real action on the ground.

Duty bearers in the Member States consider legal and policy instruments developed at EU level, as well as cooperation and shared learning of government officials through participation in EU policy processes, to be major drivers contributing to the successful design and implementation of national policies and legislation. This in turn contributes to gradually changing social norms, leading to growing support for LGBT equality and increased social cohesion and inclusiveness. To facilitate and propel forward this process, public authorities and professionals need to be supported – through training, capacity building and leadership – to increase their competence and accountability so that they can provide high-quality public services equitably and efficiently.

Strengthening EU and national action

FRA opinion

As stressed in FRA's EU LGBT survey reports,[1] the EU and its Member States are encouraged to develop action plans that promote respect for LGBT persons and the protection of their fundamental rights, and/or integrate LGBT issues in their national human rights action plans and strategies. Developing such action plans can be facilitated by exchanges of knowledge and expertise through the European Commission's High level group on Non-Discrimination, Equality and Diversity'.

Member States are encouraged to further support events that increase LGBT visibility, such as Pride events, and to promote a more balanced public opinion on LGBT issues by facilitating dialogue that involves political parties, religious institutions and the media. Comprehensive public awareness-raising campaigns could combat negative stereotypes and increase social acceptance and respect of LGBT persons.

As stated in FRA's EU LGBT survey reports, equal protection against discrimination on the ground of sexual orientation in the EU would significantly improve if it were extended beyond the field of employment and occupation, as proposed by the European Commission in its Proposal for a Council Directive of 2 July 2008 on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation. Such protection against discrimination should include the ground of gender identity. This needs to be strongly supported by strengthening the capacity of public authorities and through a commitment to policy implementation on the ground.

Member States should encourage multiagency cooperation and coordination between public authorities and LGBT civil society organisations and include them in policy design, implementation and evaluation.

1 FRA (2013a); see also FRA (2014a).

Raising awareness and strengthening capacity of public officials

The findings indicate that awareness levels about violations of LGBT persons' rights vary significantly across the EU Member States studied. Some policy officials do not see a need for policies to protect and promote the fundamental rights of LGBT persons and do not see themselves as having any specific competence and responsibility in this regard, while a small minority links homosexuality with pathology and paedophilia or does not even acknowledge LGBT people's right to equal treatment.

FRA opinion

EU Member States should conduct systematic training for public officials on LGBT issues and fundamental rights challenges faced by LGBT persons.

The European Commission should encourage Member States to exchange promising practices in different sectors of public administration, with a particular focus on law enforcement, education, healthcare and state–citizen relations, to promote respect for LGBT persons.

EU Member States could consider implementing equality and diversity audits in their public administration to develop effective and evidence-based diversity strategies, equal treatment policies, and codes of conduct.

Law enforcement: strengthening capacity and awareness of police officers in confronting hate crime

Some law enforcement officials do not recognise or underestimate the scale and nature of homophobic, biphobic and transphobic hate crime incidents in their jurisdiction. To provide a high-quality police service, it is essential to improve legal provisions addressing hate crime, as well as the capacity of the police to deal effectively with hate crime, in particular concerning the protection of victims.

FRA opinion

EU Member States should consider adopting and enacting criminal law provisions that afford protection against homophobic and transphobic crimes by including sexual orientation, gender identity and gender expression as grounds of hate crime motivation in national legislation on bias-motivated crime, where this is not already in place, building on FRA's work and that of the Hate Crime Working Party coordinated by FRA.

EU Member States should ensure that crimes motivated by sexual orientation, gender identity and gender expression bias are appropriately recorded and that relevant statistics are published in accordance with Article 28 and Recitals 56 and 64 of the Victims' Directive (2012/29/EU).

As stressed by FRA in its 2015 comparative legal analysis on homophobia, transphobia and discrimination on grounds of sexual orientation, gender identity and intersexuality, EU Member States should pursue efforts to build trust between LGBTI people and law enforcement – for example, by providing training and developing guidelines/handbooks for police, prosecutors and judges on how to assist/support victims of hate crime based on sexual orientation and/or gender identity.

EU Member States could consider introducing methods that facilitate reporting, and improve reporting rates, by adopting 'self-reporting' tools or 'third party reporting' methods with the support of civil society organisations. As stressed in FRA's report on Victims of crime in the EU: the extent and nature of support for victims,[2] EU Member States that have not yet established generic support services are encouraged to take urgent steps to comply with the Victims' Directive (Article 8). Access to support services should be available to all crime victims free of charge and should not be dependent on a victim reporting the crime to the police.

Education: strengthening capacity and awareness of teachers and other educational professionals in managing diversity and tackling bullying, intimidation and ignorance

Most EU Member States covered by this research lack policies and implementation mechanisms to tackle effectively phenomena of discrimination and intolerance related to sexual orientation and gender identity or expression in educational settings. Respondents pointed out that, even where anti-bullying measures are in place, they are often too generic and may be ineffective in dealing with bullying on grounds of sexual orientation or gender identity and expression. Many teachers and head teachers said that they need training, tools and support to implement relevant equality and anti-bullying policies in educational settings.

2 FRA (2014c).

FRA opinion

As FRA stressed in its EU LGBT survey and Being trans in the EU reports,[3] *EU Member States should ensure that schools provide a safe and supportive environment for LGBT persons, free from discrimination, bullying and exclusion. Schools should be encouraged to include specific reference to LGBT issues in general anti-bullying policies. In particular, EU Member States should encourage schools and educational authorities to develop equality, diversity and anti-bullying policies and actions that will empower educators and parents to support LGBT students so they can feel safe and respected in all educational settings.*

EU Member States should ensure that competent public authorities, such as equality bodies, national human rights institutions and children's ombudspersons, are properly mandated, resourced and encouraged to deal with bullying and discrimination on grounds of sexual orientation and/or gender identity in education.

EU Member States should take measures to ensure that the information on sexual orientation, gender identity and gender expression provided in education is unbiased and objective, promoting diversity and equality. School materials that describe homosexual orientation as a pathology should be reviewed.

EU Member States should ensure the implementation of the Council of Europe Strategy for the Rights of the Child (revised 2016–2019), particularly in respect to bullying, and consider drawing on UNESCO's work on improving educational responses to homophobic bullying.

Healthcare: strengthening capacity and awareness of healthcare professionals

The research reveals that healthcare professionals in several EU Member States still view homosexuality and transsexuality as pathological. At the same time, as evidenced by the EU LGBT survey, discrimination against LGBT persons in the health sector is a reality. In some cases, healthcare professionals do not know how to approach and provide treatment to LGBT persons, and homophobic or transphobic behaviour was also reported. A large number of health professionals interviewed said that they need training.

FRA opinion

As also stressed by FRA's EU LGBT survey report,[4] *EU Member States should ensure that adequate training and awareness raising on the health needs of LGBT persons is provided to healthcare professionals and health insurance personnel – especially for frontline staff, including general practitioners and nurses, and specialised staff, such as psychologists. A core aspect of such training should be to inform health professionals that sexual orientation, gender identity and gender expression are not pathological conditions.*

EU Member States should consider including specific reference to the health needs of LGBT persons in national health plans, policies and actions, particularly in educational and training curricula, as well as in national health surveys. Health inequalities specifically affecting LGBT people – such as minority stress, healthcare avoidance, etc. – should be addressed by such plans and policies. Professional medical associations should raise awareness among their members regarding the discrimination and specific health issues faced by LGBT persons.

Healthcare for trans persons: strengthening capacity and awareness of healthcare providers

This research, as well as the EU LGBT survey, shows that trans persons face particular challenges with respect to healthcare. Some respondents argued that a few healthcare professionals behave in a discriminatory manner towards trans persons. The research also shows that specialist services for trans persons are spread unevenly across EU Member States and are unavailable in some EU Member States.

FRA opinion

EU Member States should set up or modify concrete policies and protocols for healthcare providers to provide the highest attainable standard of health to trans persons, including non-stigmatising national standards of care, particularly for children and adolescents. This includes removing references to transsexuality as a psychiatric abnormality where this is still the case in training manuals and related material. Such protocols should recognise the wide variety of trans persons and their health needs.

3 FRA (2013a, 2014a).

4 FRA (2013a).

As stressed by FRA's comparative legal analysis report (2015 update),[5] *EU Member States should take measures to ensure respect for gender non-conformity and facilitate access to gender reassignment surgery when requested. If this is not available in particular EU Member States, these states should ensure that reliable and transparent information is available about good-quality trans-specific healthcare via the cooperation laid down by the EU cross-border healthcare directive (2011/24/EU).*

EU Member States should set up national training curricula for health practitioners that address the health needs of trans persons and provide objective information about trans persons. Training should focus on the importance of respectful communication with trans people, including the use of gender-sensitive language, avoiding assumptions, providing information in a transparent manner and respecting the principles of confidentiality and privacy.

5 FRA (2015a).

Introduction

European Union agencies, including the European Union Agency for Fundamental Rights (FRA), the European Institute for Gender Equality (EIGE), the European Foundation for the Improvement of Living and Working Conditions (Eurofound), the European Police College (CEPOL), the European Union's Judicial Cooperation Unit (Eurojust), the European Judicial Network (EJN) and the European Asylum Support Office (EASO), should mainstream issues related to sexual orientation and gender identity in their work, and continue to provide the Commission and Member States with evidence-based advice on the fundamental rights of LGBTIpeople; [...] The Fundamental Rights Agency should assist Member States in improving their collection of comparable data about homophobic and transphobic hate crime.

European Parliament (2014), Resolution on the EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity, *2013/2183(INI), 4 February 2014*

Why is this research needed?

The EU LGBT survey, conducted by FRA and published in 2013, examined the perceptions and experiences of more than 93,000 LGBT persons who responded to the online survey across the EU.[6] Of all respondents, 47 % have personally experienced discrimination or harassment in the year preceding the survey. One quarter of the respondents has been attacked or threatened with violence in the previous five years. More than eight out of 10 respondents in each LGBT group and in each EU Member State has witnessed negative comments or conduct during their schooling because a schoolmate was perceived to be LGBT. One third of the survey respondents stated that, in the 12 months preceding the survey, they have felt personally discriminated against in at least one of the following areas because they were LGBT: housing, healthcare, education, social services, and access to goods and services. In addition, a previous FRA report focusing on the legal and social situation of LGBT persons[7] showed that LGBT persons face many social and legal obstacles to enjoying their fundamental rights.

Given that international and European human rights provisions, as well as EU secondary law, protect the fundamental rights of LGBT persons, FRA developed large-scale qualitative research to identify drivers and barriers to the implementation of such provisions and laws by interviewing public officials and professionals responsible for implementing equality legislation and policies. The respondents were 1,039 public officials and professionals working in policy development and implementation, education, healthcare and law enforcement in 19 EU Member States. The very large sample and extensive qualitative research make it the largest qualitative study of its kind addressing public authorities in the EU.

Research objectives

The main purpose of this research was to collect data that can assist both EU institutions and Member States' authorities to understand how national (public) laws and policies aimed at the protection, promotion and enjoyment of the fundamental rights of LGBT persons are applied in practice and how they could be further developed in a systematic and sustainable manner. Additionally, the public authorities and duty bearers had the opportunity to flag the absence or need for laws and policies addressing such issues in their country. Hence, the research collected reflects the experiences, views, opinions and assessments of public officials and professionals about the main factors acting as drivers of, or forms of resistance to, the development, functioning and sustainability of national (public) policies and policy measures (actions) within the European Union and its Member States to effectively address the discrimination, violence and victimisation, as well as marginalisation and social exclusion, experienced by LGBT persons.

Legal and policy context

The principle of equal treatment is a fundamental value of the EU which ensures both respect for human dignity and full participation on equal terms in economic, cultural and social life. This is clearly expressed by Article 3 of the Treaty on the European Union (TEU) and brought together in the Preamble of the Charter of Fundamental Rights of the European Union (Charter), which constitutes the compass for individual fundamental rights protection under EU law. The Preamble specifies that 'the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity'. Article 21 of the Charter prohibits 'any discrimination based on any ground such as sex [...] and sexual orientation'. This provision addresses discrimination by the institutions and bodies of the Union themselves as well as by Member States when they are implementing Union law. EU-wide protection of trans persons against discrimination is secured in the area of employment and occupation, as interpreted by the CJEU, which has held that the rights cover persons who have undergone, are undergoing

6 FRA (2013a).
7 FRA (2009).

or intend to undergo gender reassignment.[8] The EU has legal competence under Article 19 of the Treaty on the Functioning of the European Union (TFEU) to legislate in the area of equality and thereby actively combat discrimination. The Racial Equality Directive (2000/43/EC) and the Employment Equality Directive (2000/78/EC) are primary examples of this. The Employment Equality Directive[9] prohibits discrimination based on sexual orientation in employment. The Racial Equality Directive[10] and the two Gender Equality Directives[11] moreover oblige the EU Member States to set up bodies overseeing their implementation.

The Council of Europe Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states[12] has set important standards relevant to this report. The recommendation emphasises the role of public policy-making and of public officials specifically:

> *Public officials and other state representatives should be encouraged to promote tolerance and respect for the human rights of lesbian, gay, bisexual and transgender persons whenever they engage in a dialogue with key representatives of the civil society, including media and sports organizations and religious communities.*

It also stresses the obligations that states have to set up and implement policy measures.[13] These include:

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

2. *ensure that legislative and other measures are adopted and effectively implemented to combat discrimination on grounds of sexual orientation or gender identity, to ensure respect for the human rights of lesbian, gay, bisexual and transgender persons and to promote tolerance towards them.*

The European Parliament adopted a resolution in February 2014, calling for an LGBTI Roadmap.[14] This was for the EU to protect the fundamental rights of lesbian, gay, bisexual, trans and intersex (LGBTI) people by mainstreaming them in all its areas of legislative and policy competence, including in the fields of employment, education, health, goods and services, free movement, freedom of expression, hate crime, asylum and foreign relations.

8 See CJEU, C-13/94, *P. v. S and Cornwall City Council*, 30 April 1996 (Article 5(1) of the 76/207/EEC directive on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, precludes dismissal of a transsexual for a reason related to gender reassignment).

9 Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

10 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

11 Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services; Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

12 Council of Europe, Committee of Ministers (2010), Recommendation Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity, 31 March 2010. This is soft law, and other standards are also relevant. Some parts of the recommendation quoted are from the recommendation itself, and others are from the appendix to the recommendation.

13 *Ibid.*, p. 7.

14 European Parliament (2014b).

KEY CONCEPTS AND TERMINOLOGY

This report examines issues of equal treatment and non-discrimination on two grounds, namely sexual orientation and gender identity. The report uses 'LGBT' as an umbrella term but also refers to individual subgroups, acknowledging that the fundamental rights issues affecting lesbian, gay, bisexual and trans persons can differ.[15] The experiences of LGBT persons are also affected by their educational and socio-economic backgrounds and other characteristics.

The terms used are based on the Yogyakarta Principles[16] on the application of international human rights law in relation to sexual orientation and gender identity. They have been used by international treaty bodies and other human rights mechanisms, including the Council of Europe's Commissioner for Human Rights, the UN Committee on Economic, Social and Cultural Rights and the UN High Commissioner for Human Rights.

Sexual orientation refers to 'each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender'.[17] It covers identity (being), conduct (behaviour) and relating to other persons (relationships). In common parlance, persons can be heterosexual (oriented towards persons of a different gender), homosexual (gay or lesbian, i.e. oriented towards persons of the same gender) or bisexual (oriented towards all genders), notwithstanding the fact that a plethora of other or additional multiple identities in regard to sexual orientation are possible – asexual, for example.

Gender identity refers to 'each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms'.[18] Individuals whose gender identity does not correspond with the sex assigned at birth are commonly referred to as transgender persons or trans persons. This group includes persons who wish at some point in their life to undergo gender reassignment treatments (usually referred to as transsexual persons), as well as persons who 'cross-dress' and persons who do not, or do not want to, consider themselves as being 'men' or 'women'. Some of these individuals refer to themselves as 'gender variant'.

Gender expression refers, then, to a person's manifestation of their gender identity, for example through 'masculine', 'feminine' or 'gender variant' behaviour, clothing, haircut, voice or body characteristics. Since experiences of homophobia, transphobia and discrimination on the grounds of sexual orientation and gender identity often find their roots in social perceptions of gender roles, the FRA EU LGBT survey has also included this element.

15 FRA's current work focuses on LGBTI issues, covering the intersex community in its research activities. For example, in May 2015, FRA issued a paper on The fundamental rights situation of intersex people.
16 International Commission of Jurists (ICJ) (2007).
17 FRA (2013a), p. 8.
18 *Ibid.*

1 Public officials and LGBT policies



The public officials surveyed served in central or regional government and in human rights institutions or equality bodies, dealing with equality and anti-discrimination policies, including on grounds of sexual orientation and gender identity. Their main legal tools for implementing policies that promote equality for LGBT persons and protect them from discrimination come from the robust EU anti-discrimination legislation and relevant directives. However, the Employment Directive prohibits discrimination based on sexual orientation in employment, but not based on gender identity and not in other areas. Nevertheless, several EU Member States have gone beyond EU law to provide protection against discrimination in additional areas and/or on additional grounds, including sexual orientation and/or gender identity among the protected grounds in combating discrimination and hate crime. In this landscape, the research has therefore focused on the implementation of existing or recently developed legislation, and of actions, such as strategies, policy frameworks and roadmaps promoting equality of LGBT persons in the EU.

The research shows that there is a need for policies to strengthen the awareness of public officials and their capacity to guarantee and promote equality, while combating discrimination against LGBT persons. Existing legislation and policies need to be supported by concrete steps that transform legal obligations into real action on the ground.

The majority of public officials interviewed were involved in developing law and policy in relation to LGBT persons, adopting EU law and/or implementing it at higher and centralised level. Some were assigned the task of designing and/or coordinating and implementing equality policies, measures and action plans – such as public policies on combating discrimination, including on grounds of sexual orientation and gender identity. Some

Key findings

- Public officials maintain that among multiple drivers of policies to support the fundamental rights of LGBT persons the most crucial is a commitment to EU policies and the process of adopting EU legislation into national law.
- Some respondent are concerned that EU policies and legal standards regarding the fundamental rights of LGBT persons are not always implemented effectively.
- Non-governmental organisations (NGOs) are seen as important actors that drive change by supporting and triggering the enactment of legislation and the implementation of policies.
- In some cases, relevant instruments, policies and mechanisms are in place, but smooth coordination and communication between the different bodies and actors is a challenge.
- Lack of awareness among public officials, prejudice and individuals' negative attitudes constitute major barriers to the adoption and implementation of LGBT equality-related policies.
- There are considerable differences among EU Member States regarding what the respondents think about the general population's attitudes towards LGBT persons and their rights.
- Public officials believe that an adverse social climate acts as a major barrier to developing and implementing equality policies in Bulgaria, Croatia, Finland, France, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Romania and Slovakia.
- Important differences exist between and within countries concerning initiatives to support the fundamental rights of LGBT persons. Promising practices, where they exist, are often being carried out in large urban areas.
- Where equality policies are in place, lesbian women, bisexual persons and trans persons tend to be overlooked and the policies tend to focus mainly on the rights of gay men.
- Trans persons are seen by some public officials as facing particularly severe discrimination in many EU Member States.

- There is a vicious circle in that the largely hidden LGBT community stays hidden for fear of discrimination, meaning its lack of fundamental rights remains unnoticed by public officials and professionals.
- Policy officials report a range of initiatives to support and protect the fundamental rights of LGBT persons.

worked in government and others in national human rights institutions and equality bodies.

Public officials interviewed expressed concern about the contrast between the actual experiences of LGBT persons and the standards and legal duties in place to protect them, indicating that the latter are not fully implemented. The findings of FRA's EU LGBT survey reflect this: on average, across the EU (with considerable variations between EU Member States) 55 % of lesbian women, 45 % of gay men, 47 % of bisexual women, 36 % of bisexual men and 46 % of trans persons felt harassed or discriminated against on the grounds of their sexual orientation or gender identity during the 12 months before the survey.

On the other hand, the interviews with public officials indicate that many EU Member States are concerned about this situation and intend to address gaps in policy and legislation protecting the fundamental rights of LGBT persons. References to the rights of LGBT persons are progressively integrated in human rights action plans in an increased number of EU Member States.[19] Legislative frameworks have been improved, often extending protection against discrimination on the grounds of sexual orientation and gender identity beyond employment. While the respondents in FRA's EU LGBT survey recognised the need for public policies addressing the fundamental rights of LGBT persons, more than half (58 %) thought that positive measures to promote respect for the fundamental rights of lesbian, gay and bisexual people were rare in their country of residence. The figure for trans persons alone was 63 %.

A growing number of EU Member States have strengthened European coordination and consultation mechanisms in the area of LGBT fundamental rights, notably through the European Network of Governmental LGBT Focal Points, which includes representatives of most EU Member States. Many see a particular role for the European Commission in strengthening and coordinating policy and legislative efforts in this area. On 17 May 2013, ministers of 11 EU Member States – Austria, Belgium, Croatia, Denmark, Finland, France, Italy, Luxembourg, Malta, the Netherlands and Sweden – signed a joint statement calling on the European Commission to step up efforts for EU-wide action to combat discrimination on the grounds of sexual orientation and gender identity. The joint statement calls for '[commitment] to developing and adopting a comprehensive policy approach that built upon the recommendations of the Fundamental Rights Agency Survey'.[20]

1.1. Drivers protecting and promoting the fundamental rights of LGBT people

A number of positive policy developments are taking place to ensure that LGBT persons can enjoy their fundamental rights. The main driving factors behind efforts to ensure fundamental rights for LGBT persons, and to make policies work, include national and local structures and mechanisms, awareness-raising initiatives and partnerships with NGOs.

1.1.1. Awareness of LGBT fundamental rights

The majority of the public officials interviewed demonstrated a certain level of awareness of the fundamental rights challenges LGBT persons face. Discussions with some of the public officials about LGBT-specific issues were wide-ranging and included areas where rights may be lacking, such as pension rights, parenting rights and partnership rights. Results showed awareness of issues such as homophobic bullying and harassment in schools, health problems and healthcare provision, and safety. In a few EU Member States with well-developed fundamental rights policies for LGBT persons (for example, Ireland), some interviewees believed that LGB issues have been addressed and interventions are no longer needed. 'LGB' is used instead of 'LGBT' when referring only to lesbian, gay and bisexual people, and not to trans persons.

Most of the interviewed officials whose remit included fundamental rights described in detail the legal situation affecting LGBT people. In Austria, for example, almost all interviewees referred to the inclusion of sexual orientation as a protected ground in the Equal Treatment Act (*Gleichbehandlungsgesetz*), which deals with employment. EU directives and recommendations were widely mentioned as positive drivers for developing and implementing policies at national level. In Member States such as Finland, Ireland, the Netherlands and the United Kingdom, officials discussed in depth the infrastructure – that is, available resources, mechanisms and services, expert staff at ministries – supporting initiatives for LGBT persons' fundamental rights.

19 FRA (2011).

20 Joint statement by ministers from 11 EU Member States, May 2013.

According to many of the interviewed officials, political support for LGBT persons' fundamental rights is crucial to pass legislation, develop and implement policies, and procure resources for structures and mechanisms. For example, respondents in Poland argued that members of parliament, as well as ministers, are often influenced by a negative social climate regarding legal or policy action on LGBT issues. Respondents suggest that cross-party support is particularly important and is shown in a few countries, such as the United Kingdom and Denmark.

In most EU Member States, public officials working at national and regional levels were more aware of challenges faced by LGBT persons than officials working in more front-line positions – for example, local educational policy managers. However, in some Member States, such as Poland, many of the officials interviewed had limited knowledge of LGBT issues. Some of the representatives of Polish institutions that deal with equality as part of their mandate had a firm grasp of the issues (including the discrimination LGBT persons face and the issues that are relevant to them, such as partnership rights), whereas those representing education and healthcare had very little knowledge.

The extent to which the interviewed officials saw LGBT persons' fundamental rights as a part of their and their institutions' responsibility varied widely. Officials' personal views concerning LGBT people were also diverse. Some officials expressed considerable individual personal commitment to LGBT peoples' fundamental rights, which may or may not also reflect an institutional standpoint, while others showed a lack of awareness.

A substantial number of officials said that media coverage increases public awareness of LGBT issues. Some officials saw it as a useful means of increasing tolerance, tackling prejudices, publicising successful court cases about LGBT persons' fundamental rights, and informing LGBT populations about their rights.

"I think the more you talk the better, the more you write the better, the more you discuss the better, the more you raise your voice the better, the more you voice discomfort and discrimination and report violence the better. Because a problem that is unnamed becomes a non-issue and if the problem exists you have to voice it aloud."
(Public authority representative, deputy head of police, Italy)

1.1.2. EU legislation and policy initiatives

As respondents argued, EU legal and policy standards provide support for the further development of national policies strengthening the protection and promotion of fundamental rights of LGBT persons. Officials said that EU legal and policy developments (including EU-funded initiatives) were important in encouraging Member States to undertake additional steps in that direction.

Some of the interviewed officials highlighted activities of the European Commission that support their work. For example, in Malta, two officials mentioned the opportunities for discussion and peer learning, assistance with the development of new programmes and funding for research.

Respondents suggested that the actual impact of EU directives depends on political support at national level. For example, one Hungarian official described how national political support enabled the introduction of registered partnership for same-sex couples. Respondents also noted that public opinion affects the way EU directives are implemented on the ground.

Some respondents suggested that support for EU policies by politicians can be attributed to an eagerness to show compliance with what are perceived as progressive EU standards, for instance on LGBT equality.

EU hard and soft law has been used by national, but also regional, officials to support their policy work:

"In the Barcelona town council we have looked upwards very much and the European Commission has been many times a model to imitate. We have always looked upwards, not downwards. For us, the European Union has been a legal framework or basis from which I think that in Catalonia and Spain we have gone beyond."
(Public authority representative, office for non-discrimination, Spain)

A number of officials in other countries stressed the need for continued pressure to develop and, in particular, implement national legislative frameworks, since poor practices were reported despite the existence of legislation. In other countries, national legislation was considered inadequate by some respondents.

Some officials said that the work of international NGOs, such as Amnesty International, and human rights documents, such as the Yogyakarta Principles, contributed to their efforts to support LGBT equality policies. For example, in Slovakia, one official reported that the LGBTI Committee (a government advisory body established in 2012 and chaired by the Justice Minister) submitted a document to the Slovak Government Council for Human Rights, National Minorities and Gender Equality in 2013 that drew on the Yogyakarta Principles.

1.1.3. Progressive change of social norms and attitudes

Views on the impact of wider social changes vary among officials in a number of countries. Many thought that greater visibility had made their society more tolerant of LGBT persons, while some disagreed. For instance, in countries such as Romania, the majority of officials reported both greater visibility of LGBT people as well as more intolerance towards them. A minority

of officials in some countries, including Greece and Hungary, suggested that some policy changes actually affected LGBT people negatively – for example, forced HIV testing.[21] Gay pride events remain a contested issue in some countries. For example, some officials in countries such as Bulgaria, Croatia, Hungary and Lithuania opposed pride events and suggested that the appearance of people dressed or behaving provocatively could prompt reactions against them. However, a number of officials thought that pride events, though controversial, create space for honest and open public debate.

Similarly, a substantial number of officials said they thought media coverage increases public awareness of LGBT issues. Some officials saw the media as a useful tool for increasing knowledge, tackling prejudices, publicising successful court cases about LGBT persons' fundamental rights, and publicising and informing LGBT populations about their rights.

Some of these views were reflected by law enforcement officers. It was common across all countries for interviewees to identify wider social changes raising awareness of LGBT issues. Again, the growing public visibility of LGBT persons was linked to growing acceptance of sexual difference and improved social conditions for coming out, itself encouraging greater public discussion of LGBT concerns and needs. This included representation in popular culture such as TV shows featuring LGBT characters, which was seen as a sign that LGBT issues are no longer perceived as taboo.

Other events – such as witnessing celebrities and public figures (including high-level politicians) coming out – often help break stereotypes concerning LGBT people among the public and other politicians, and shape political discussions. For instance, several police officers in Poland cited the election of an openly gay person and a transsexual person to parliament. They thought this led to serious debate about LGBT issues such as same-sex unions and better protection of LGBT people against hate crimes. Media coverage of several LGBT hate crimes was also seen by several respondents as having galvanised the wider public to condemn such offences. However, a minority in some Member States (often with underdeveloped rights frameworks) thought that little or no change had occurred, or perceived greater intolerance towards LGBT persons. Nevertheless, even in countries with policy frameworks supporting the rights of LGBT persons, such as the Netherlands, there is thought to have been an increase in homophobic violence and bullying of LGBT pupils in schools.

Overall, a majority of respondents see wider social changes as driving the development of policies to better protect LGBT persons and encourage the police to address LGBT issues in their daily work.

A few public officials mentioned that, in addition to common drivers, some drivers of change are more specific to one country. For example, an official in Ireland mentioned historical influences such as the women's and trade union movements as driving current work on LGBT persons' fundamental rights.

"The first group that really engaged, and indeed empowered, the LGBT community was the women's groups and then trade unions came in on it as well. So the current rights may be fought from one particular group but the principles affect society and the current rights debate is being fought through gay rights and it is a debate where I think a lot of what are called 'straight people' see that and hence they see the boomerang effect of discrimination. If you begin to construct lesser status for people categories, you yourself can be next on the list.

[F]or example one of the greatest things we did to get people to engage in implementing equality for LGB people was the employers and the unions had to see each other in Equality Authority Board. We wrote social partnership into that initiative, so the employers and trade unions came to the table and prior to that they participated in rights for LGB people.

[...]

And to be fair the trade union movement were the first, prior to decriminalisation, to bring forward policies recognising the rights of gay and lesbian workers."
(Public authority representative, head official, equality authority, Ireland)

In Malta, a major legislative change – the introduction of divorce rights in 2011 – was seen as helping to catalyse a trend towards increased civil liberties, creating a more supportive environment for LGBT anti-discrimination work, as well.

1.1.4. National legislation and strategic litigation

National legislation is crucial in helping public officials to protect LGBT people from discrimination. A large number of officials referred to national legislation of relevance to LGBT people in several EU Member States, including Austria, Bulgaria, Croatia, Denmark, Hungary, Ireland, Latvia, the Netherlands, Poland, Slovakia and the United Kingdom. Officials in countries such as Austria, Greece and Ireland discussed the importance of cases being taken to national courts. Irish officials mentioned a number of successful court cases brought by LGBT individuals, including two cases concerning trans persons. The first case recognised the right of Dr Lydia Foy to have a birth certificate in her acquired female gender, prompting the Irish government to express to

21 Greece, Public Health Decree 39A- 2013, officially repealed in April 2015.

the High Court its 'firm intention' to enact the necessary laws 'as soon as possible'. In September 2015, Lydia Foy's female gender was recognised after she lived in that gender for 23 years;[22] she was also awarded the European Citizens Prize by the European Parliament in June of the same year.[23] The second case was won against an employer who failed to allow a trans person to dress according to her preferred gender.[24]

Legal developments are also taking place in other Member States. For example, respondents in Lithuania pointed to cases applying the Equal Opportunities Law (2008), which forbids discrimination on the basis of sexual orientation:

"We have been representatives in cases too. For the first time we compelled the two courts to transfer the task of arguing to the defendant [...] We don't have the right to directly apply to the court, but as a third party we can support him in at least a couple of cases. These cases were precisely regarding sexual orientation."
(Public authority representative, legal advisor, Lithuania)

Strategic litigation at EU level

The European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU) have reviewed cases concerning the human rights of LGBT persons. The significant impact of their judgments has encouraged LGBT organisations and activist lawyers to increasingly use litigation to promote respect for the human rights of LGBT people.[25] These strategic efforts can be seen as a form of lobbying because their goals include the development of relevant case law as well as the promotion of respect for the human rights of LGBT people at national level, since the decisions of European courts have a significant impact at national level.[26] Furthermore, such decisions aid the implementation of EU and Council of Europe human rights standards at national level ('implementation litigation').

1.1.5. Government coordination mechanisms for LGBT equality policies

Some public officials underlined the importance of internal government coordination structures in developing or reforming legislation. For example, in Croatia, a working group in the Ministry of Public Administration (*Ministarstvo uprave*) was tasked with drafting legislation and resolving various issues relevant to same-sex partners and their families. The act amending the Same-Sex Unions Act (*Zakon o istospolnim zajednicama*) of 2003 grants same-sex couples the same rights as married partners, except the right to adopt children.

A wide variety of entities are responsible for promoting and protecting fundamental rights of LGBT persons at the national level. Some of the interviewed officials reported that, in EU Member States where the LGBT remit is integrated into government structures, it may be addressed across several ministries or departments. For example, in Denmark, a number of ministries are involved in the protection and promotion of fundamental rights of LGBT persons (including the Ministry of Gender Equality and Ecclesiastical Affairs, the Ministry of Justice, the Ministry of Social Affairs and Integration, the Ministry of Economic Affairs and the Interior and the Ministry of Health). In Finland, the Ministry of Foreign Affairs was seen as the most active administrative actor on LGBT issues, but the Ministry of the Interior's Equality Unit coordinates the National Monitoring System on Discrimination and an anti-discrimination campaign targeting schools and a range of other institutions.

It is often seen as a positive development when a range of ministries and departments are responsible for implementing LGBT anti-discrimination policies, but this can also risk fragmentation if efficient coordination is lacking. A good practice example can be found in the Netherlands, where the emancipation plan for women and homosexual persons is coordinated by the Ministry of Education, with a substantial designated budget, while other ministries are also involved in its development and implementation In the absence of a comparative evaluation of administrative models of division of competence and mandates in EU Member States, we cannot conclude which model is better. In some cases, it will be better for a single ministry or department to take the lead to avoid it getting 'lost' among the numerous competences of many agencies and bodies, depending on the administrative tradition and coordination culture in each Member State.

Some of the officials who contributed to the research reported that, in some EU Member States – namely Austria, Hungary, Ireland and the United Kingdom – equality bodies have been established instead of, or in addition to, equality functions in ministries or government departments. For example, Austria has a national Ombudsperson for Equal Treatment (*Gleichbehandlungsanwaltschaft*), who deals with issues relating to the Equal Treatment Act, as well as the Commission for Equal Treatment (*Gleichbehandlungskommission*, GBK). The GBK's mandate stipulates that it prevents and mediates conflicts arising from alleged discrimination in the area of employment, and works alongside

22 Flac News (2015), 'Victory at last for Lydia Foy: Trans people win right to legal recognition', Vol. 25, No. 3;
23 European Parliament (2015), European Citizen's Prize: honouring engaged Europeans, Brussels.
24 Ireland, Equality Tribunal, *Louise Hannon v. First Direct Logistics Ltd*, Decision No. DEC-E2011-066, 18 April 2011.
25 Guerrero (2014).
26 Schepel and Blankenburg (2001).

labour and social courts (whereas the *Bundesgleichbehandlungskommission* is an organ within the Ministry of Education and Women's Affairs that deals only with federally employed public officials). The functions of national equality bodies include the design and implementation of LGBT anti-discrimination initiatives. For example, in Hungary, the Equal Treatment Act (2003) prohibits discrimination on various grounds, including sexual orientation and gender identity, and it established the Equal Treatment Authority (*Egyenlő Bánásmód Hatóság*, EBH). The EBH is responsible for investigating individual complaints of discrimination related to all grounds named in the law. Since 2009, the Equal Treatment Authority has had officers in all 19 county capitals, who can receive complaints from local residents and forward them to the authority. In some EU Member States, including Ireland and the United Kingdom, work includes commissioning research about the rights of LGBT people. A few officials noted that commissioning research can act as a catalyst for change because it raises issues and provides evidence that can be used to develop initiatives; contributors in several countries, including Ireland, saw it as important. In the United Kingdom, the Equality and Human Rights Commission plays an overarching role regarding LGBT persons' fundamental rights:

"Our position is, we are the regulator, so we explain the law through our guidance through other ways of raising awareness and disseminating the information. It is the legal responsibility of providers of services, say health and social care, to determine what and how they execute those obligations."
(Public authority representative, head official, equality and human rights body, United Kingdom)

Structures for addressing LGBT persons' fundamental rights issues have been developed at different times across the different EU Member States. Countries such as Croatia have built such structures in the past few years, while in Ireland, for example, the Equality Authority has been in place since 1999.

1.1.6. Role of strategic planning at national, regional and local levels

The Member States studied vary widely in their approaches to strategic planning in national, regional and local government. The officials reported that national-level comprehensive action plans for LGBT issues exist in a few Member States. In some of the countries that do not have integrated national LGBT action plans, other mechanisms are used. Some EU Member States take a cross-cutting approach, with LGBT concerns more or less integrated into general action plans covering aspects of human rights or into sector-specific policies (for example, Croatia, Denmark, Finland, Ireland, the Netherlands and Lithuania).

In Poland, for example, a national plan is to cover all discrimination grounds listed in the Act on Implementation of Certain Regulations of the European Union on Equal Treatment,[27] including sexual orientation. It will also refer to gender identity. According to the interviewees from the office responsible for drafting the plan, it will address particular areas of life, including education, employment, violence against vulnerable groups and healthcare. It will define tasks and assign them to individual ministries and state institutions (according to public authority representatives, including a head official and officer, from a Polish equality body).

1.1.7. Monitoring and performance assessment

One of the main findings of this report is the need to enhance capacity and competence to improve public sector efficiency and accountability in implementing LGBT equality policies. The public officials interviewed were largely unaware of relevant monitoring and evaluation mechanisms and processes. There is evidence that LGBT equality issues are included in performance management in the Netherlands and in the United Kingdom. For example, a Dutch official reported that including LGBT issues in an overall plan meant that local officials could be held accountable by their municipal council, through monitoring processes.

"The value of such a plan is that you are accountable."
(Public authority representative, municipality policy officer, Netherlands)

In the United Kingdom, performance management is an important means of making sure that the legislation affecting fundamental rights of LGBT persons is being implemented. However, these mechanisms have reportedly been somewhat weakened since 2010 by a reduction in central government control of local administration.[28]

1.1.8. Regional and local structures and policies

There is considerable variation among the countries studied concerning the competences and actions taken by regional and local administrative structures to develop and implement LGBT equality policies. In some countries, considerable work takes place at the local level, such as in the United Kingdom.[29] In a few Member States, the regional or local administration authorities have adopted specific measures. In

27 Poland, Act on Implementation of Certain Regulations of the European Union on Equal Treatment [*Ustawa z dnia 3 grudnia 2010 o wdrożeniu niektórych przepisów Unii Europejskiej w zakresie równego traktowania*], 3 December 2010.
28 See Monro and Richardson (2014).
29 McNulty *et al.* (2010).

particular, no specific national public body is tasked with implementing LGBT equality policies in Spain; instead, these tasks are carried out at the regional and local level. For example, interviewees mentioned that the Barcelona town council has had a Non-Discrimination Office for many years, which deals with discrimination on all grounds. In the Netherlands, strong administrative structures exist at all levels of government, from national to regional and local. Each of the 40 selected 'frontrunner municipalities' (*koplopergemeenten*) receives € 20,000 per year from the national government for the development and implementation of local LGBT action plans. For 2015–2017, this sum rises to € 50,000 per year. LGBT policy follows the general trend of decentralisation in Dutch governance. Interviewees identified regional or local plans in a number of EU Member States (including Austria, Denmark, Italy and Spain), typically in larger urban centres, that can help with the implementation of rights initiatives. For example, in Budapest, there is an equal opportunity programme that includes gender identity and sexual orientation. In Austria, policies and strategies on non-discrimination against LGBT persons are implemented in the province of Vienna only. The WAST (*Wiener Antidiskriminierungsstelle für gleichgeschlechtliche und transgender Lebensweisen*) has existed for 15 years and is located in the office of the Councillor for Integration, Women's Issues, Consumer Protection and Personnel of the Municipality of Vienna.

Some local authorities have adopted plans that are specific to LGBT policy areas. Other regional and local-level policies are generic and cross-cutting but do include LGBT people specifically. Approaches vary within as well as between different EU Member States. For example, in Spain, in the region of Andalusia, the government has integrated the rights of the LGBT population into plans covering other vulnerable populations, instead of drawing up specific plans for each interested group. The human rights of LGBT persons are taken into account in all areas (for example, employment, housing and sports). By contrast, Catalonia has a targeted action plan to combat discrimination against LGBT people.

In the EU Member States that were actively implementing non-discrimination work aimed at LGBT persons, public officials reported that frontline policies were approached in a variety of ways. These include strategies within government departments plus a national equalities body; regionally devolved human rights work organised through regional working groups and administrations; a national strategy and working group as well as sector-specific policies; and national sector-specific working groups and implementation mechanisms. Examples are provided below (see later sections of the report for frontline practices in the areas of hate crime, education and healthcare).

Ireland

The *Action Plan on Bullying: Report of the Anti-Bullying Working Group to the Minister for Education and Skills* was introduced in January 2013. Previous guidelines from 1993 did not name homophobic or transphobic bullying because there was silence around the issue (Public authority representative, principle officer, Ireland). The action plan contains 12 actions and 13 recommendations for further consideration, and section 2.7 refers specifically to homophobic bullying. Ireland's Department of Education and Skills (DES), in partnership with the Gay and Lesbian Equality Network (GLEN), has produced guides for principals, deputy principals, guidance counsellors, teachers and all school leaders. The DES will consult with teaching unions and interested bodies for their responses to the action plan. The Minister for Education and Skills has ring-fenced € 500,000 for implementation.

Action 8 flags the 'Stand Up Awareness Week against Homophobic Bullying', which aims to prevent and tackle homophobic and transphobic bullying in schools by increasing friendship and support for LGBT students; raising awareness of LGBT students among other students, teachers, principals and others in the school-wide community; and encouraging LGBT students to report bullying, leading to a reduction in bullying and attendant isolation, self-harm, suicidal behaviour and mental health difficulties among LGBT students.

For more information, see Ireland, Department of Education and Skills (2013).

1.1.9. Specialised training and competencies

Respondents indicated a number of challenges and needs concerning the competencies required to efficiently address the fundamental rights issues of LGBT persons. These included the following: raising awareness of issues faced by LGBT people across sectors (for example, in Austria, Croatia, Greece, Italy, Poland, Slovakia and Spain); knowledge in order to develop in-service sectoral training (for example, in Hungary); guidance on developing and implementing policies to support the fundamental rights of LGBT persons (for example, in Austria and Malta); training on human rights obligations for prosecutors and judges (for example, in Poland); and communication with LGBT persons (for example, in Latvia).

The availability of training programmes varies considerably across EU Member States.

The research also shows that public officials have received training on LGBT persons' fundamental rights issues in a few EU Member States. For example, in Poland, the EU has funded training at national

level, as part of the Equal Treatment as a Standard for Good Governance project, and at local level, as part of the Equal Treatment as a Standard for Good Local Governance project.

Latvia

Some public officials (including public authority representatives and heads and deputy heads of ministerial departments) provided information on the training of about 30 public officials from the ministries and the institutions under their supervision within a project supported by the Council of Europe. The Ministry of Culture, in cooperation with the Ministry of Education and Science, organised a seminar in Latvia in November 2012, according to a public authority representative (deputy head of ministerial department).

The first part of the training was devoted to the exchange of information among various institutions, including the Council of Europe, FRA, researchers, anthropologists, NGOs and state institutions, on the topic of non-discrimination. During the second part, training was conducted with a view to changing attitudes, while the public officials had an opportunity to provide recommendations and concrete suggestions on what should be done to improve the situation. The training of the professionals allegedly provided an opportunity to discuss LGBT issues, which the public officials had not previously addressed because awareness was low, including a lack of knowledge of vocabulary related to LGBT and the practice of other states.

As a result of the seminar, several proposals for further action were made, including campaigns and awareness raising; training for professionals (doctors, police officers and public officials); revision of legal acts, including those on registering partnerships; establishing lobbying groups among the public officials supervising the implementation of the integration policy, and among NGOs; and explaining LGBT issues through arts, films, books, various photo exhibitions and other means to show diversity in society (Public authority representative, head of ministerial department).

Source: ILGA (2013), Europe annual review Latvia, *p. 136*

1.1.10. Partnerships with NGOs

The respondents indicated that international and national LGBT networks play a key role in supporting the fundamental rights of LGBT persons. These include professional networks and events. In a number of EU Member States, such as Ireland, Finland, Denmark and the United Kingdom, civil rights organisations and related NGOs help drive forward the fundamental rights of LGBT persons. Examples of positive practices are found, for example, in Spain and Denmark.

"The [NGOs] have managed to get it on the national agenda, and they have caught the interest of some of the national politicians. It has been a long, tough process."
(Public authority representative, national health service, Denmark)

"You need people in politics, who put the topic on the agenda. For that you need good interest groups that are well-organised [...] and who know how to lobby on that."
(Public authority representative, senior ministry advisor, Netherlands)

In several EU Member States, a substantial number of officials saw LGBT organisations as the single main driver for work funded by the state on LGBT persons' fundamental rights. Their view is that, in EU Member States where LGBT rights policies are especially underdeveloped, LGBT organisations are particularly crucial because they can advocate on behalf of an otherwise mostly hidden and marginalised population.

"We have a very important network of all sorts of organisations in Sabadell and we jointly and transversally work with all of them. That is, with the sport organisations we do not only talk about sport or we do not only talk about culture with cultural organisations, we also talk about LGBT with them."
(Public authority representative, city councillor, Spain)

Mechanisms for consulting different sections of the population can be seen as important for representing diverse populations. In countries such as the Netherlands and in parts of Spain, consultation mechanisms act to mainstream LGBT persons' fundamental rights across different sectors in an integrated way – a promising practice.

1.1.11. Role of public figures and leadership

Many public officials who were interviewed expressed the view that people in positions of leadership – including politicians, public officials and media figures – play an important role in leading the work in this field. By publicly supporting policies to support fundamental rights for LGBT people, they help to legitimise LGBT persons' fundamental rights work and to improve public understanding of the issues. The officials said that leaders and public figures provide support for LGBT persons' fundamental rights policies in a range of EU Member States. For example, in Hungary, the engagement of the Ombudsman for Gender Equality, the Minister of Science, Education and Sports and other senior actors was seen by public officials as important in promoting positive change concerning LGBT persons' fundamental rights. Leadership can also take the form of symbolic support:

"[E]ven though LGBT persons' fundamental rights are not too much in the foreground in the work of the Office of the Ombudsman, since 2008, that is for six years now, we are going out to these events [Budapest Pride Marches] […] this is the Ombudsman's commitment."
(Public authority representative, head of unit of human rights body, Hungary)

Some of the interviewees said that politicians who are open about being LGBT can play an important part in advocating on behalf of LGBT persons' fundamental rights and in changing public opinion. For example, in Ireland, during the time the research was conducted, three openly gay men were members of the lower house of parliament and one openly lesbian woman was a member of the upper house. However, not all EU Member States have LGBT politicians who have 'outed themselves'.

"It would be very important if some politician would come out of the closet, and if there would be more public officials with such orientation in public […] such things could change the situation and push ahead legislative amendments."
(Public authority representative, deputy head of ministerial department, Latvia)

Some of the interviewed officials felt that official leadership is important at national, regional and local levels, as demonstrated in Denmark, the Netherlands, Italy, Spain and the United Kingdom. For example, in Denmark, local leadership and advocacy can be seen in the municipalities of Copenhagen, Aarhus, Odense and Holstebro, where funding has been allocated to school projects and campaigns against hate crime.

"I helped the LGBT [staff] network double its membership. I held events that were developmental for the group. Access to training."
(Public authority representative, city council manager, United Kingdom)

A number of officials discussed mechanisms to support LGBT public officials. For example, in the Netherlands, an interdepartmental working group on LGBT issues was formed across ministries, and there was support in some municipalities for employees to take part in LGBT pride events.

1.2. Barriers to making fundamental rights a reality for LGBT people

A number of barriers hamper making fundamental rights a reality for LGBT persons, ranging from misconceptions and prejudice – such as the perception of LGBT persons as pathological[30] or paedophiles – to a lack of awareness, access to information and training that could help public officials exercise their tasks as duty bearers.

A number of officials felt that their country was 'not ready' for LGBT persons' fundamental rights. These officials came from EU Member States including Bulgaria, Greece, Hungary, Slovakia and Lithuania.

"[A]bout the [LGBT] strategy […] I don't think our society is mature enough for this."
(Public authority representative, advisor, Lithuania)

"Simply, the social–intellectual context has not become mature enough for this."
(Public authority representative, director, Hungary)

Some of the interviewed officials in several EU Member States, including Austria, Bulgaria, Hungary, Finland, Latvia and Romania, said levels of awareness of initiatives supporting LGBT persons' fundamental rights were low. A minority of these officials discussed other equality policies when asked about LGBT policies – for example, strategies for children or for disabled people, which did not include LGBT people.

"They often do not have knowledge, and they cannot develop a policy, if they do not know the issue, and what 'LGBT' means. We could also learn from the experience of other states."
(Public authority representative, head of ministerial department, Latvia)

"I do not know of any. Maybe the EMMI [Emberi Erőforrások Minisztériuma, Ministry of Human Resources] has one. I definitely have not met such a thing here or in the government programme."
(Public authority representative, head of ministerial department, Hungary)

The research process itself revealed unease and bias among some officials; in certain EU Member States, some refused to participate. Some officials expressed homophobic reactions; for example, an official in Bulgaria laughed out loud when asked about a national action plan on LGBT non-discrimination.

In a number of EU Member States, a substantial proportion of the interviewed officials hold the view that

30 The World Health Organization (WHO) has declassified homosexuality as a mental health problem. However, a section in its International Classification of Diseases (ICD) lists a number of sexual orientation-related problems – for example, "ego-dystonic sexual orientation". Homosexuality was listed as 'sociopathic personality disturbance' by the Diagnostic and Statistical Manual of Mental Disorders (DSM), published by the American Psychiatric Association (APA) between 1952 and 1974, when the term 'ego-dystonic homosexuality' was adopted. It was removed in the DSM-III (1987), and the latest DSM-V (2013) does not contain any reference to sexual orientation related to a disorder.

the lack of fundamental rights for LGBT persons is not a problem and therefore no work is needed. It is quite common to deny the need for LGBT anti-discrimination work, and therefore not to construct policies and develop implementation structures and mechanisms:

"[I]t is not considered a problem. As I said earlier we did not find a difference in the implementation of regulations relative to these groups. As it is not evaluated as a problem, there is no implementation of adequate policies."
(Public authority representative, head of ministerial department, Greece)

Even in EU Member States with relatively well-developed work on LGBT rights, there are areas where officials lacked awareness. For example, in Ireland, many officials did not distinguish between the different groups included in the 'LGBT' abbreviation.

There was little evidence that public officials have received training on the rights of LGBT persons, or that this is planned, in a large number of EU Member States. Most officials did not support training and raising awareness of LGBT issues, despite the lack of awareness found among many interviewed officials in some EU Member States. This differs from the findings regarding the professional groups, where interviewees were very supportive of training on LGBT issues.

A few officials had major misconceptions about LGBT persons, indicating, for example, that homosexuality or bisexuality is a pathology or is connected with paedophilia. Other misconceptions were also apparent.

"In a relationship between two persons of type L or two persons of type G, the aim is strictly emotional, without any purpose. It is rather bizarre and it happened so many times that a gay family adopts a child. Yes? Maternal love is something else, even though in a relationship between two gay persons one is passive and the other is active."
(Public authority representative, general inspector, Romania)

Some officials noted that misconceptions about LGBT persons can have a negative effect on related policies and compromise implementation.

"[S]ometimes it is not the politics of the state, since it is positive and correct, but some personal subjective attitudes can become a barrier."
(Public authority representative, head of division, Lithuania)

1.2.1. Role of religious institutions

Public officials interviewed stressed that religious institutions can act as barriers to the promotion of LGBT equality, although there are examples of positive approaches. Some officials, such as in France and the Netherlands, also reported that interpretations of Islam can have a negative impact on LGBT rights.

Public officials in Austria, Croatia, Hungary and Slovakia argued that prejudice founded on beliefs associated with religion can act as a major barrier to the promotion of LGBT equality, especially as the church and religious organisations have significant political influence. Respondents in other countries, including Ireland, Malta and Poland, said that the Catholic Church makes efforts to promote better understanding of LGBT issues.

Barriers to change: misconceptions, prejudices and stereotypes

The interviews revealed a number of misconceptions, prejudices and stereotypes among some officials, including:

- Same-sex sexual relations are sinful.
- Same-sex sexual relations are abnormal or pathological.
- Homosexuality is a 'foreign trait'; there is no history of homosexuality or gender variance in 'our country'.
- Heterosexual relationships are better than same-sex relationships.
- Only people in male–female relationships should have children.
- Children who are brought up by same-sex parents will become homosexual.
- LGBT people pose greater child protection risks than heterosexual people.
- Children and young people must be stopped from accessing information about homosexuality and gender variance in case they are encouraged to become LGBT themselves.
- Homophobic, transphobic and biphobic bullying in educational settings does not exist.
- Hate crime against LGBT people does not happen.
- There are only two sexes (male and female). People who identify as a sex other than male or female (as do some trans and intersex people) do not exist.
- LGBT persons are responsible for their own problems. Heterosexual persons and the state are not responsible for strengthening the fundamental rights of LGBT persons.

The role religious institutions and pressure groups play in respect to LGBT equality is influenced by the specific history of church involvement in social and political issues in each country. For example, in Romania, public officials and education professionals interviewed noted that the Orthodox Church resists changes to achieve LGBT equality.

"As long as the Orthodox Church has this very strong position, it is hard for me to imagine that the European Union will deeply influence the issue, through its recommendations, unless the recommendations will be very firm, at legislative level."
(Public authority representative, officer, city hall, Romania)

1.2.2. Role of political parties and opinion makers in promoting LGBT equality

In some countries, public officials interviewed argued that some politicians are reluctant to support LGBT equality policies, fearing the political cost this might entail. The political sensitivity of LGBT issues was raised by several officials in countries such as Bulgaria, Greece and Slovakia. For example, most officials in Bulgaria felt that it would take a lot of courage for public officials and politicians to openly support LGBT equality.

"I am telling you that to a great extent even to talk about [sexual orientation and gender identity] could have a political cost. So, the choice usually is to avoid this discussion and even more to avoid any policies that could eventually have some publicity."
(Public authority representative, equality body senior officer, Greece)

"Slow change in society's attitudes impedes progress, because politicians take into account the opinion of inhabitants and pay attention to common society's opinion."
(Public authority representative, ministerial advisor, Lithuania)

Although the political context varies considerably across the different Member States, respondents in Member States such as Austria, Bulgaria, Finland, Greece, Latvia, Malta, Poland and Romania indicated that some political parties adopt homophobic and/or transphobic positions. Respondents argued that progress in LGBT equality is also affected by political lobbying by pressure groups.

"It has become worse. Fewer and fewer of those concerned dare to admit their sexual orientation [...]. Politicians encroach on the private life of the people."
(Public authority representative, equality body lawyer, Hungary)

"We did not get the LGBTI policy there that is a thoroughly political choice [...] as I understand it, there was some lobbying."
(Public authority representative, senior ministerial advisor, Finland)

Respondents indicated that, in some cases, child protection is used as an emotional argument to oppose LGBT equality policies. For example, in Austria, a number of political parties have used the argument of child protection against the introduction of sex education materials with references to homosexual and bisexual families. In other Member States, LGBT equality issues are simply ignored.

"There is a famous statement by one unnamed Slovak politician who said that the issue of registered partnerships is number 10,000 on the list of his priorities. Just to give you an idea of how seriously our political representatives take this issue. And I believe this attitude cuts across the political spectrum."
(Public authority representative, ministerial officer, Slovakia)

Interviewees also mentioned homophobic public statements by politicians as a barrier to implementing LGBT equality policies. For example, several Bulgarian public officials commented on a number of homophobic public statements made by members of the government and the parliament in recent years. In Finland, politicians from one political party have been vocal in publicly opposing LGBT people's right to equal treatment. In other EU Member States, such as Austria and Greece, opposition to LGBT equality has also been reflected in some media.

Some officials also suggested that new politicians appear to be more willing to support LGBT equality policies. For example, in Poland, a respondent described how political willingness to improve LGBT equality has increased over the years.

1.2.3. Implementing EU legislation

In some Member States, interviewees indicated problems with adopting and implementing EU law. For example, an official in Spain discussed how the two anti-discrimination directives were adopted into Spanish law through a much broader legal text that joined both directives, merging and reducing their content. Plans to implement legislation are not always put in place.

"The experience shows that very often the national lawmaker and policies will jump into implementing the EU recommendations without necessarily adopting a realistic planning of these things."
(Public authority representative, equality body senior officer, Greece)

There is also evidence from EU Member States such as Austria and Bulgaria that policy measures implementing EU directives are not effective. For example, a Bulgarian official reported that they had a national action plan around 2007 that outlined some specific actions concerning LGBT persons.

"Overall, it's a plan to pull the wool over the international community's eyes, maybe, that we have some sort of antidiscrimination plan. But no specific measures were even initiated under this plan, or at least I am not aware of such measures, and if they were initiated, they were not publicised sufficiently to be noticed."
(Public authority representative, deputy head officer, Bulgaria)

Respondents in the United Kingdom argued that legislative changes had improved the overall social acceptance of LGBT people, but not necessarily their daily lives.

"I think in terms of the legislative and policy environment there have been changes; whether they have had an impact on the lives of LGBT people I think is more questionable."
(Public authority representative, head of unit of human rights body, United Kingdom)

1.2.4. Barriers related to institutional structures and processes

A number of EU Member States have no – or only weak – institutional structures to support LGBT persons' fundamental rights, according to the public officials. Another challenge concerns coordination and communication between existing structures and mechanisms. The officials who were interviewed reported that, in some EU Member States – including Bulgaria, Greece, Latvia, Romania and Slovakia, – work concerning LGBT persons' fundamental rights was mostly or completely absent from national government ministries, departments and agencies.

"[T]here has not yet been a specific project in connection with the rights of gay people or the rights of LGBT people here in the Office of the Ombudsman."
(Public authority representative, head of unit of human rights body, Hungary)

"As concerns sexual orientation, there is no ministry that would move this issue ahead. So, this is an obstacle for the practical elaboration of such policy."
(Public authority representative, head of department of human rights body, Latvia)

Some public officials in EU Member States, including Greece, Bulgaria, Hungary, Latvia and Romania, were uncertain whether dealing with LGBT equality issues was within their departments' competences. For example, in Hungary, officials of the Equal Opportunities Department (*Esélyteremtési Főosztály*), the EMMI and the Public Administration and Justice Ministry (*Közigazgatási és Igazságügyi Minisztérium*) with a broader mandate on human rights argued that their remit does not cover sexual orientation and gender identity issues. A lack of clearly defined responsibilities or competence for LGBT equality and other human rights issues is also evident in other countries.

"I do not see it as part of the competence of the ministry, but that does not mean that there is a ministry that is competent."
(*Public authority representative*, senior ministerial e*xpert, Bulgaria*)

Institutional restructuring and related processes, such as resource re-allocation, can also cause short- or long-term deficits in capacity. In a few EU Member States, such as France, broader difficulties with institutional restructuring, or barriers to bringing about institutional change, were discussed. As indicated above, there can also be a risk of fragmentation when responsibility for fundamental rights work for LGBT persons is spread across different ministries or departments. In some EU Member States, there appear to be general problems with developing rights policies and structures. For example, in Austria, some officials reported that equality action plans and policies are not part of the political and organisational cultures and that equality and rights functions are undervalued within government institutions. Also, although some of the officials working on equality issues reported that they can offer their expertise – for example, when parliamentary bills are drafted – they feel that they have little influence.

Where some structures are in place, there can be problems with coordination and communication. A major obstacle to effectively implementing legislation and policies in the Member States is the fragmentation of mandates and compartmentalisation of powers and tasks.

"A barrier [to general policy] could be that we are separated into more departments, so who is responsible for taking the initiative to a general policy? Who should set the agenda?"
(Public authority representative, consultant, Denmark)

In some EU Member States, including Bulgaria and Latvia, there are indications of a lack of political support for rights legislation, policies and structures more generally. Also, officials in Member States such as Finland noted that there is no point in having policies if implementation mechanisms are not also developed – including ways of ensuring accountability, such as monitoring and assessment.

"Unless there is a binding resolution or other kind of policy document that would charge the state administration organs with concrete tasks and activities, then allocation of resources becomes virtually impossible."
(Public authority representative, ministerial officer, Slovakia)

1.2.5. Awareness and perceptions about LGBT equality policies and action plans

In a majority of the Member States studied, officials interviewed indicated that there was a lack of action plans or related policies. Where plans do exist, but

officials interviewed are not aware of them, this indicates a need to review how public officials are informed about plans and engaged in their implementation.

In some countries, such as Bulgaria and Romania, interviewed officials said that neither regional/local nor national LGBT anti-discrimination plans exist.

"We drafted the strategy [...] because there was nothing covering the LGBT community and issues, we could not include them. This is the official, institutional reason. I personally believe that the ministry was not ready to address this issue, not yet [...] we need trained people who are aware, but above all [...] we need political will and interest for these issues."
(Public authority representative, advisor, Romania)

In other EU Member States, some officials argued that policies were limited in scope. For example, in Hungary, the National Strategy on Promoting the Social Equality of Women and Men mentions same-sex couples in the section on family diversity, but sets no concrete objectives or measures. A number of interviewees in Hungary and some other EU Member States said that a lack of specific policy goals to address discrimination against LGBT people is a major obstacle to progress.

Respondents indicated that useful policies can sometimes face problems if their implementation is not designed appropriately. For example, a United Kingdom official argued that, although Ofsted, the United Kingdom's school inspectorate service, requires schools to record bullying incidents, schools may be reluctant to record them to avoid a negative image of high bullying figures. This can lead to a lack of data, which can hamper efforts to more effectively tackle homophobic bullying.

1.2.6. Working with civil society organisations

In a few EU Member States, public officials reported a lack of cooperation with NGOs that affected relations negatively. For example, a Polish official said that LGBT NGOs were unwilling to collaborate with a specific minister because they considered the minister to be homophobic. The research findings indicate that in some EU Member States a lack of institutional capacity, knowledge of the situation and political will creates obstacles to collaboration between LGBT civil society and government institutions.

"Everything that comes out about the LGBT community comes out of the community itself [...] there is no government institution that would shed light, figuratively speaking, on its problems, its rights."
(Public authority representative, deputy head, Bulgaria)

In other EU Member States, including Austria, Finland and Ireland, some officials felt that LGBT NGOs are not sufficiently integrated into policy-making and implementation structures. For example, in Ireland, one official reported that state funding for LGBT NGOs is very limited and that, although some LGBT groups are able to lobby specific government agencies, the lack of a dedicated structure for collaboration – such as 'LGBT councils' that could be modelled on youth councils – is noticeable.

1.2.7. Lack of evidence and data

Officials, particularly in Greece, Latvia and Poland, reported a lack of evidence about the extent of discrimination on the ground of sexual orientation. This affects the design of relevant policies.

"If we look at the statistics, we, of course, cannot consider this issue as a very important problem [...] There is a need for a sufficiently big number of complaints so that the Ombudsperson's office could say that this is an important problem in society."
(Public authority representative, head of department of human rights body, Latvia)

1.2.8. Resources to implement policies

In some Member States, officials interviewed argued that there is a risk that LGBT equality policies will receive less attention in the face of the ongoing economic crisis. A number of officials raised the issue of a lack of resources as a threat to the implementation of LGBT equality policies, especially in Spain, although some officials in a number of EU Member States argued that the lack of resources was sometimes used as an excuse for inaction.

"As regards European funds, we live in times of economic turmoil, so often good ideas are handicapped by lack of sufficient finances, and they need to wait for better times to come. We already benefit from European funding, but surely, if there is more money, there will be more initiatives, also for LGBT persons."
(Public authority representative, ministerial department expert, Poland)

In addition, some officials in countries such as Greece and Hungary indicated that LGBT equality policies should not be a priority over other issues, such as racism or child protection.

"Several groups face different problems. I do not think this problem is more serious than those faced by mothers with small children or elderly people."
(Public authority representative, head of ministerial department, Hungary)

1.3. Cross-cutting themes regarding public authorities and LGBT issues

1.3.1. Targeted versus generic interventions

One of the key challenges for work on LGBT persons' fundamental rights is balancing policies specifically aimed at ensuring that LGBT persons can enjoy fundamental rights – known as 'targeted or specific interventions' – with general measures to support human rights, known as 'generic interventions'.

Generic equality or fundamental rights legislation may be ineffective regarding LGBT people and issues. For example, the Fundamental Law in Hungary provides a framework for non-discrimination and rights, but does not provide specific protection regarding sexual orientation. Generic plans and policies can also work well, especially in driving work forward in specific sectors. However, some officials in EU Member States such as Finland, Ireland and Italy expressed concerns that work was not sufficiently coordinated and that there is a need for greater communication across sectors and levels of government. In some countries that supposedly included LGBT anti-discrimination policies within generic policies – for example, Lithuania and the United Kingdom – the lack of developed policies concerning LGBT people meant that LGBT persons' fundamental rights could be overlooked. In fact, some officials – for example, in Malta – pointed out that policies that are seen as supporting generic rights actually discriminate against LGBT people if, for example, LGBT employees cannot make use of benefits, such as family emergency leave, when these are available only for biological family or spouses.

In EU Member States reported to lack specific policies for the rights of LGBT persons, many officials were very much opposed to targeted interventions for LGBT persons' fundamental rights – for example, in Bulgaria and Latvia. This was because they thought it unnecessary to intervene in favour of LGBT persons' fundamental rights. Some officials thought that having targeted interventions would be seen as giving 'special treatment' to LGBT people. Those who supported the fundamental rights of LGBT persons but were operating in a hostile environment were sometimes worried that targeted measures would provoke a backlash against LGBT persons' fundamental rights or even hate crimes against LGBT persons.

"I am worried that the [LGBT persons] would become even more attacked, that we will put them in the spotlight and they would be in even more danger."
(Public authority representative, ministerial expert, Bulgaria)

In countries such as Austria, there was an opposition to targeted policies or action plans in general, because they were seen as being hard to implement. Officials in Member States as diverse as Latvia and the Netherlands did not want to take targeted approaches. They argued that it would require bringing in targeted approaches across a range of marginalised groups:

"[I]f we elaborate a plan on non-discrimination of LGBT people, we should also plan a strategy or a planning document on racial and ethnic discrimination … it would be an unequal approach. If we prepare a strategy for one group, another one, e.g. Russian speakers, would ask us, 'Why do you not do that for us? We also face discrimination'."
(Public authority representative, senior ministerial officer, Latvia)

Integrated strategies, which include specific LGBT actions alongside other measures, were apparent in some EU Member States, such as Denmark, Ireland and the Netherlands. They can function very well, mainstreaming LGBT persons' fundamental rights work alongside other areas of policy work and allowing policymakers and practitioners to bring them into all areas of service provision. They also avoid the political problems that can affect targeted interventions.

"If you have a common health policy for a municipality or department, it will underpin the specific initiatives, strengthen the work of institutions, and place them in a common frame. It also reinforces the work in the individual institutions where initiatives are made. The individual initiatives are legitimised because they are part of a general policy."
(Public authority representative, consultant, Denmark)

It may be that a combination of generic and targeted policies works best. It seems important to consider the issues at hand rather than choosing either targeted or generic approaches. A promising practice was evident in Denmark, where generic approaches were chosen because of the nature of the problem to be addressed, rather than because the needs of LGBT people were denied.

"We have had a number of general campaigns against bullying […] we have chosen not to focus on specific subgroups in that regard. This is because studies show that bullying doesn't depend on the motive behind the bullying. The victims are chosen more or less randomly when the conditions for bullying are present."
(*Public authority representative, consultant, Denmark*)

1.3.2. Awareness of the different groups included under the term 'LGBT'

The research findings show that interviewed public officials with a specific equality remit had more knowledge about LGBT issues than those with sector-specific remits, such as education. Some officials held the view that their colleagues working at local level were less knowledgeable. For example, in the Netherlands, some public officials noted that their 'frontline' colleagues often lacked the specific knowledge necessary for effective LGBT equality work and that they might not have the resources to gain this knowledge.

In some EU Member States – for example, in Denmark, Greece, Ireland, Spain, Finland and Lithuania – the interviews indicated that policies on trans peoples' fundamental rights and related mechanisms were less developed than those for lesbian women and gay men. For example, in Ireland, most respondents – other than trans healthcare providers – referred mainly to lesbian women, gay men and bisexual persons. This may partly be explained by previous successful lobbying by lesbian and gay organisations, such as GLEN.

Public officials in several countries said there was less awareness and knowledge about trans issues than about LGB issues among public officials in EU Member States.

"It seems that T is an issue that comes up all the time [...] In some central authorities, there are some people in high positions that clearly do not understand these issues, and they have given some pretty peculiar statements."
(Public authority representative, head official of national human rights body, Finland)

There was also a tendency for interviewed officials to assume that trans people were transsexual, whereas the term 'transgender' also covers persons who 'cross dress' or persons who do not, or do not want to, consider themselves as being 'men' or 'women', or persons who refer to themselves as 'gender variant'. Respondents also noted positive developments in regard to trans people. In Finland, for example, the Government Action Plan for Gender Equality, which includes measures for all public authorities, also includes trans people.

Public officials and other duty bearers often lack awareness about bisexuality. In the majority of interviews, there was no reference to bisexual persons, despite prompting by the interviewers.

"Interviewer: In your view, do lesbian, gay, bisexual persons have particular health issues that might require different or special expertise?
I think they're always [...] each of us should have the attention in relation to their lifestyle, in relation to what we do in daily life, so regardless of being heterosexual or gay or lesbian everyone should know the right behaviour to be in good health."
(Health professional, Italy)

Officials aware of LGBT issues usually assume that bisexual people have the same rights issues as lesbian women and gay men. Research shows, however, that bisexual persons face specific issues – including experiencing discrimination from lesbian women, gay men as well as from heterosexual persons, and high levels of mental health and substance abuse. The social silence about bisexuality underpins bisexual peoples' marginalisation and minority stress.[31] The term 'biphobia', which refers to aversion bisexual persons face, was never used by the public officials interviewed.

31 See Barker *et al.* (2012).

2 Education



The fundamental right to education and access to vocational and continuing training is enshrined in the Charter (Article 14), as well as in Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR): 'Education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.' Moreover, it shall 'enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship'. The UN Convention on the Rights of the Child protects children from discrimination (Article 2) and ensures their right to education (Article 28). It has been ratified by all EU Member States.

The UN Committee on the Rights of the Child has ruled that the non-discrimination provision in Article 2 of the convention obliges state parties to ensure that all human beings below the age of 18 enjoy all the rights set forth in the convention without discrimination, including on the basis of adolescents' sexual orientation (General comment No. 4 (2003)). In the same comment, it states that the right to express views freely and have them duly taken into account (Article 12) is also fundamental in realising adolescents' right to health and development.

EU competence on education in the Member States is rather limited, and so EU secondary law in this area is practically non-existent. The EU's powers in the area of education are outlined in Article 165 of the TFEU, which states that:

- the EU shall contribute to the development of quality education by encouraging cooperation between Member States, supporting their action;
- EU action aims at developing exchanges of information and experiences on issues common to education systems of the EU Member States, encouraging the participation of young people in democratic life in Europe.

Key findings

- Education professionals stress that discrimination against students and staff on grounds of sexual orientation and gender identity is widespread.
- Respondents say that LGBT students often choose to remain invisible to avoid becoming targets, making it more difficult to understand their needs and take action.
- Objective information about sexual orientation and gender identity rarely appears in school curricula or educational activities.
- In the EU Member States studied, with the exception of Ireland, all education professionals interviewed say they received no training about LGBT issues as part of their standard specialised professional education.
- In some of the Member States studied, respondents indicate that there are certain positive initiatives in education to support diversity and respect for LGBT people.
- Education professionals underline the importance of leadership within educational institutions to make schools and universities a safe space for LGBT students.
- Education professionals often face particular difficulties with families and local communities who are prejudiced, or lack awareness about LGBT issues, sometimes fuelled by negative media reporting.
- Teachers and headmasters interviewed note the importance of EU anti-discrimination legislation and legal provisions tackling hate crime, as well as cooperation with LGBT NGOs and the personal commitment of education professionals, as key to protecting and promoting effectively the fundamental rights of LGBT persons in educational settings.

Within this framework, EU initiatives encourage and assist Member States in tackling homophobic and transphobic school bullying and promoting human rights education and safe and respectful learning environments.

The Council of Europe Recommendation CM/Rec(2010)5 of the Committee of Ministers has set important standards for European member states. It emphasises the role of policymakers and professionals in education:

> *[M]ember states should take appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; this includes, in particular, safeguarding the right of children and youth to education in a safe environment, free from violence, bullying, social exclusion or other forms of discriminatory and degrading treatment related to sexual orientation or gender identity.*
>
> *[A]ppropriate measures should be taken to this effect at all levels to promote mutual tolerance and respect in schools, regardless of sexual orientation or gender identity. This should include providing objective information with respect to sexual orientation and gender identity, for instance in school curricula and educational materials, and providing pupils and students with the necessary information, protection and support to enable them to live in accordance with their sexual orientation and gender identity.*
>
> *[M]ember states may design and implement school equality and safety policies and action plans and may ensure access to adequate anti-discrimination training or support and teaching aids. Such measures should take into account the rights of parents regarding education of their children.*[32]

FRA's EU LGBT survey[33] found that, in all EU Member States, more than eight in 10 LGBT persons have witnessed negative comments or conduct during their schooling because a schoolmate was LGBT. Almost one in five persons who had attended school or university, or whose children had attended school or university, felt personally discriminated against in an educational setting within the 12 months before the survey. There was wide variation across the EU, ranging from 8 % of respondents feeling discriminated against in the Netherlands to 31 % feeling discriminated against in Lithuania.

Two thirds of the LGBT respondents to the survey said that they often or always hid their sexual orientation or gender identity during their education before the age of 18. This rose to 77 % for trans students. There was little variation across the EU Member States regarding this issue.

The survey found that 71 % of LGB people thought that the implementation of measures in schools would allow them to be more comfortable living as a LGB person. For trans people, the figure was 64 %.

The research based on interviews with public officials and duty bearers complements the findings of the 2013 EU LGBT survey. The interview questions were designed to address a number of key issues, including educational professionals' interactions with LGBT students, their views about LGBT persons' fundamental rights and their views about levels of acceptance of LGBT persons in educational settings. They were asked about drivers and barriers to supporting the fundamental rights of students in relation to sexual orientation and gender diversity in educational settings. The educational professionals were asked about instances of bullying of LGBT students and any anti-bullying strategies. They were also questioned about the inclusion of materials on LGBT issues in the curricula. Issues of training and other support for professionals were also addressed.

2.1. Drivers protecting and promoting the fundamental rights of LGBT people in education

The research identified the following key drivers for LGBT equality in education, among others: effective policies and action plans, educational curricula, awareness of issues, training and processes within institutions. Cooperation of educational establishments with NGOs can also play an important role.

2.1.1. Awareness and leadership support

Leadership by government officials and by politicians is very important in bringing about change to support LGBT people in educational settings. This can include active development of policies and implementation mechanisms, resourcing, development and dissemination of guidance and training materials, and coordination at a national level to foster respect for diversity and tackle discrimination and homophobic bullying.

"[O]ur minister is of course also Minister of Education [...] we give schools the opportunity to see which approach suits them best in tackling homophobic violence. And we are doing that ourselves. We are doing that with six directorates, primary education, secondary education, actually all directorates that are dealing with that portfolio. And we are leading that."
(Public authority representative, Netherlands)

32 Council of Europe (CoE) (2010a).
33 FRA (2013a). See also FRA (2014a).

As respondents stressed, some EU Member States take appropriate legislative and other measures at national level to address bullying on the grounds of sexual orientation and gender identity. For example, United Kingdom schools must actively prevent bullying in relation to any of the characteristics protected under the Equalities Act (2010), including sexual orientation and gender identity.

Some education professionals referred to promising practices. For example, the Maltese Directorate for Education has an anti-bullying unit that deals with homophobic and transphobic bullying, and its anti-bullying policy specifies that schools should refer very serious cases to it. In Ireland, specific references to homophobic and transphobic bullying are a requirement under the guidelines of the Department of Education's new Action Plan on Bullying.[34]

2.1.2. Educational curricula and LGBT persons

The interviewed education professionals reported that, in most of the EU Member States studied, themes related to the fundamental rights of LGBT persons can be included in courses, such as civic education, social science, biology, health, literature, personal and social development, and history.

"We strive to raise pupils' awareness of LGBT issues by organising lectures and discussions with professionals who deal with these issues."
(School counsellor, Slovakia)

2.1.3. Awareness, views and experiences

According to the interviews with educational professionals in EU Member States such as Croatia, Italy, Ireland, Malta and the United Kingdom, the overall situation of LGBT persons has improved but the harassment of young LGBT people in educational settings continues to persist, including verbal abuse, cyber bullying and physical violence.

The professionals interviewed reported that homophobic verbal abuse is very common in schools. The word for 'gay' is routinely used as an insult in many of the countries studied, including Austria, Bulgaria, Denmark, Finland, France, Hungary, Latvia, Lithuania, the Netherlands, Romania, Spain and the United Kingdom.

"Violence in school is not the most significant; the most significant today is a homophobic climate, with recurring homophobic insults, which are trivialised, but weigh significantly on the shoulders of LGBT pupils."
(Public authority representative, France)

Respondents also noted that teachers who are or are thought to be LGBT face homophobic abuse by students.

"In the other school where I worked there was a homosexual teacher who did not show off his condition but who nevertheless made it very clear that he was homosexual, then, when things went well with him, no one recalled such trait of his, but when it was time to criticise him, the obvious word to refer to him was 'faggot'."
(Head teacher, Spain)

Respondents did indicate that some homophobic incidents were dealt with effectively. For example, a teacher in Bulgaria described an incident when a student threw pebbles at the window of a gay teacher and shouted *педерасти* ('faggot'). The interviewee reported:

"It is unusual, but the police did their job. They went and said that this was unacceptable and the child stopped doing it."
(Teacher, Bulgaria)

2.1.4. Planning and policies

In a minority of Member States, including France and Ireland, public officials said that national action plans specifically address LGBT issues in education. In other countries, including Bulgaria, Croatia, Finland, Italy, Lithuania, Spain and the United Kingdom, public officials referred to generic national policies or strategies addressing general bullying in school settings. Some of these generic policies include measures against homophobia and transphobia – for example, the *Smonta il bullo* anti-bullying campaign by the Italian Ministry of Education.

As the respondents indicated, measures to combat prejudice against LGBT persons are rarely integrated into educational performance management processes. Promising practice is evident in Ireland, for example, where the schools inspectorate is expected to play a key role in monitoring curricular provision of mandatory programmes.

2.1.5. Institutional-level measures to combat discrimination against LGBT children and young people, and employees

Promising practices in tackling bullying on the grounds of sexual orientation or gender identity were reported by interviewees in EU Member States such as Croatia, Denmark, Malta, Slovakia, the Netherlands and the United Kingdom. Measures include reporting mechanisms, collaboration between different education professionals to tackle perpetrators and support victims, and measures to prevent harassment of LGBT students. Some individual institutions have policies that are inclusive of LGBT persons. For example, in Malta, the College

34 Ireland, Department of Education and Skills (2013).

of Arts, Science and Technology has a Students' Grievance Policy[35] that includes sexual orientation; also, the Giovanni Curmi Higher Secondary School has a diversity and equality policy[36] that mentions discrimination on the ground of sexual orientation. Education professionals interviewed were in general aware of their obligation to provide a safe school environment for LGBT students:

"[W]e are obliged to protect the victim against the bullies no matter what the cause might be. And we would choose the strategy we believe makes most sense in relation to the circumstances [...] If you can't solve it through conversations and dialogue, you have to ask the bully student to find another school, because then you can't be here."
(Teacher, Denmark)

Regarding data collection, education professionals interviewed in a minority of Member States noted improvements to recording systems. For example, the Bulgarian Ministry of Education planned to use its Mechanism to Counter Bullying among Students to gather statistical data about different types of bullying. There are some areas of promising practice. In Hungary, some teachers said that recording incidents of harassment and bullying is a pedagogical requirement.

"There are these notes about employees as there are human resources dossiers about employees and in these there can be notes about disciplinary action or written notices, and these are archived. These can be LGBT related in the case if students submit a report about it." (Teacher, Hungary)

A number of education professionals argued that it is part of their pedagogical function to intervene in homophobic incidents, against either students or staff:

"[A] few weeks ago, I sat next to someone who said to a lesbian colleague, 'Dirty, filthy, disgusting fag' [vieze vuile gore flikker], and I really looked at them, 'pardon, was that necessary?' And luckily, recently, there are also other colleagues who say something about it." (Head teacher, Netherlands)

2.1.6. Creating an environment that encourages mutual tolerance and respect

A number of schools and universities are developing policies to support tolerance and respect regardless of sexual orientation and gender identity, interviewees reported. A few education professionals in EU Member States such as Greece and Poland discussed the importance of leadership within educational institutions to make schools and universities safe spaces for LGBT students. There is support for specific activities in some institutions – for example, in the Netherlands:

"[T]he PMR [Personeelsgeleding van de Medezeggenschapsraad] is going to be supportive of activities such as Purple Friday [when LGBT issues are discussed in schools], but there will also be more organised around this topic, theatre pieces, lessons [...]. When sexual minorities feel fine at school then that often also applies to other minorities."
(Teacher, Netherlands)

Many education professionals in different EU Member States discussed the importance of creating a supportive environment for all their students. This helps to support students in reporting LGBT-related bullying. A supportive environment can be helped by general policies.

"It is a general ethos that runs throughout the school [...] we have whole school assemblies on Mondays and she has given assemblies on anti-bullying."
(Teacher, United Kingdom)

"[T]he rules that stipulate the need to respect every person [...] to speak politely, [use] civilised behaviour [...]."
(Headmaster, Latvia)

Professionals discussed other ways of creating a supportive environment in EU Member States, including Austria, Bulgaria, Hungary, Ireland, Malta, the Netherlands, Poland, Romania and the United Kingdom. Practices include introducing peer mediators, buddy systems, school counsellors, school councils, coaches and psychologists as well as organising workshops and events. Peer mediation is a form of mediation through the intervention of a peer – in this case another student or a teacher. It is a way of solving a problem, incident or dispute in a private, safe and confidential way, usually with the support of specifically trained students or teachers. A buddy system can be a procedure through which two or more persons – for example students or teachers – face a situation or everyday activities together so that they can monitor and help each other. Other measures include raising awareness through internal research, awareness-raising in general, and events such as conferences and film and drama events that address LGBT issues, and inviting LGBT persons to speak to students.

"I have the feeling that just because I [personally] invited Gypsies [sic], Jews, gays and a gay teacher into the class, it has made the situation noticeably better in that form, for example there were fewer negative remarks among each other."
(Teacher, Hungary)

Creating environments in which LGBT persons feel safe to be open about their identities supports their well-being. Supportive school cultures and attitudes were discussed by education professionals in around half of the EU Member States, including Austria, Ireland, Italy, Finland, the Netherlands, Poland, Slovakia and the United Kingdom. When LGBT students are able to 'come out', this helps to create an organisational culture of tolerance. For example, in Slovakia, four education professionals had experiences of 'outed' LGBT students

35 Malta, MCAST (undated).
36 Malta, GCHSS (undated).

in their institutions being tolerated. There are also signs of progress in some other countries.

"We had one such person [trans person] in our school. The sex reassignment occurred in the course of that person's education, so he took the final examinations no longer as [female name], but already as [male name], and there were no problems whatsoever with acceptance of this fact by others. [Female name], or rather [male name] was really sweet-natured, everybody liked him/her."
(School principal, Poland)

2.1.7. Cooperation with civil society organisations

Some education professionals said that LGBT NGOs are positively involved in helping to create a supportive school/university environment in a minority of EU Member States – including Finland, Ireland, the Netherlands and the United Kingdom. For example, in the United Kingdom, the NGO Stonewall has set up a School Champions scheme aimed at getting schools on board with LGB.[37] In Finland, promising practice was also evident. The European Commission and Finnish volunteers in cooperation with the Finnish Sports Federation (FSF) and the Finnish LGBTI organisation Seta funded the campaign Dare![38]. The campaign targeted sports associations and young people, focusing on preventing anti-gay speech and conduct in sports.

Ireland

Virtually all public officials (public authority representatives including a head of communications, three principal officers and an officer, for example) indicated that LGBT NGOs play a fundamentally important role in influencing the nature and pace of reform in LGBT rights. BelonGTo, an LGBT youth support organisation established in 2003, remains a central actor in exposing homophobic/transphobic bullying. Many post-primary schools have adopted its 'Stand-Up' campaign, which the Department of Education and Skills (DES) sponsors.

Both GLEN and BelonGTo were part of the working group that emerged from the Anti-Bullying Forum jointly hosted by the DES and the Department of Children and Youth Affairs in 2012. The action plan was drafted on the basis of key stakeholder submissions, consultations with government departments and agencies, NGOs, academics and researchers, including from the United Kingdom.

For more information, see http://www.belongto.org/campaign.aspx.

37 UK, Stonewall (2013).
38 Finland, Dare! (Uskalla!) (no date).

2.1.8. Training

The interviews show that some training on the fundamental rights of LGBT persons is available to education professionals in many EU Member States. However, this is typically voluntary and not part of mandatory teacher training or professional development. Teacher training was reported to include issues of sexual orientation only in Ireland.

Promising practices were mentioned in some of the countries studied. Most interviewees in the Netherlands stated that members of the schools' care teams received initial training covering LGBT issues, bullying in general and the bullying of LGBT persons. In Romania, educational professionals report that there is some EU-funded training for education professionals that includes LGBT issues. In a few EU Member States, including Denmark, some municipalities have brought in training at a local or regional level. In some countries, including Poland, some training is available at specific institutions for professionals, such as school counsellors. A few schools (for example, in the United Kingdom) lead their own in-house training, sometimes in collaboration with LGBT NGOs such as Stonewall. Some training is taking place in other countries, such as Finland.

Finland: an example of ad hoc training

A principal of a sports school explained that the school has done 'attitude training' to stop coaches using homophobic language and expressions, as he explained that some athletes can be especially prone to using homophobic language. He did, however, not further define the content or format of this training, and it has supposedly been quite informal. He was referring to the campaign called Dare!,[39] funded by the European Commission and Finnish volunteers in cooperation with the FSF and Seta.

The campaign targeted sports associations and young people, and focused on preventing anti-gay speech and conduct in sports. 'Quite a lot of attitudinal training has been done there, because it is quite common to use rather rough language in the sports world. Like for example in ice hockey, it's a man's world in so many senses. I mean I don't know that many openly homosexual ice hockey players.' (School principal, Finland).

Source: Finland, Dare! (Uskalla!) (no date)

Some professionals who were interviewed had independently found and taken part in training provided by LGBT organisations or human rights organisations. In some cases, training is provided at an international level for educators. For example, the programme 'It Takes All

39 *Ibid.*, p. 76.

Kinds', which was coordinated by the Danish Institute for Human Rights, ran in-house focus groups for staff and students in Ireland. Irish teachers also attended dedicated LGBT training in Denmark.

2.2. Barriers to work concerning the fundamental rights of LGBT people in educational settings

The qualitative research involving public officials and education professionals showed a range of barriers to fulfilling the fundamental rights of LGBT persons in the education sector. These include misconceptions and prejudice, lack of training, issues linked to the low visibility of LGBT persons, issues with national policies and structures, implementation gaps, and barriers concerning capacity, awareness and resistance.

2.2.1. Misconceptions and prejudices

The interviews indicated that in some countries, such as Ireland, legal provisions may prevent the integration of LGBT issues in school curricula.[40] Interviews indicated that negative attitudes linked to religious beliefs may form an important barrier to the implementation of equality policies in most Member States. For example, in Croatia, the Catholic Church campaigned against the introduction of health education in schools that included a module on sex education. Some education professionals, for example in the Netherlands, also mentioned prejudice against LGBT people by some persons that were perceived to be 'Muslims'.

Education professionals reported a particular difficulty with families who are prejudiced, or who lack awareness, blocking measures to support the rights of LGBT students in EU Member States such as Bulgaria, Greece and Romania. In some cases, there was also media opposition. The problems affect LGBT education professionals, creating a discriminatory environment for them to work in.

"If I would say I am bisexual, I would be accused of being mentally sick, especially as a teacher [...] Teachers would not be comfortable to tell, because parents would say 'am I taking my child there to have him raped?'"
(Teacher, Romania)

Prejudice against LGBT people is an ongoing problem among some education professionals and parents, as well as students. For example, a public official in Slovakia and an education professional in Romania reported that conservative elements of society publicly opposed the idea of LGBT persons holding educational posts.

"Teachers would surely not be accepted, it is believed that you are in an authority position and you might impose, influence [...] that someone might become gay because he was forced to."
(School principal, Romania)

2.2.2. Low visibility of young LGBT people and lack of evidence

One of the key research findings is that a large number of educators, and some public officials, think that there is no need for any interventions in favour of LGBT persons' fundamental rights, because there appear to be no LGBT students and therefore no problems with their harassment. The LGBT population is mostly invisible, especially in EU Member States where homophobia, biphobia and transphobia are very common. Existing research from Finland, for example, shows that LGBT bullying is often hidden.[41] Some professionals, including from Croatia, Hungary, Greece, Latvia, the Netherlands and Spain, thought that the stigma and prejudice LGBT persons face in wider society would stop students from being open about their identity. There was considerable evidence that LGBT students remain unseen in educational settings:

"[T]here is neither gay, nor lesbian, at school."
(Headmaster, Lithuania)

"[I]t is extremely difficult to identify, address and retrieve information from members of those population groups, mostly because they are often very reluctant to declare affiliation to their community."
(Civil servant, Slovakia)

Interviews with education professionals have shown that the under-reporting of LGBT bullying is a major challenge across the majority of EU Member States. Some countries (including Bulgaria and the Netherlands) lack reporting procedures for any form of bullying in some schools. For example, in the Netherlands, half of the professionals said that their school does not register incidents of bullying, although the Inspectorate of Education obliges them to do so. A few professionals voiced doubt about the effectiveness of possible anti-bullying programmes in countries such as Lithuania.

A substantial proportion of education professionals are aware of homophobic language at school (the use of the term 'gay' as a form of abuse). However, these professionals often do not appear to see that this contributes to keeping the LGBT student population hidden, or to realise that the use of such terms can damage students' well-being.

40 Ireland, Office of the Attorney General, Education Act (1998).

41 Kankkunen *et al.* (2010).

2.2.3. National policies and structures

A lack of targeted policies to ensure that the fundamental rights of LGBT persons are effectively implemented is a major barrier, as it reinforces the invisibility of LGBT students and fails to address the lack of LGBT fundamental rights in educational settings. The national public officials reported a lack of national targeted policies aimed at tackling LGBT-related bullying in the majority of EU Member States, including Austria, Bulgaria, Denmark, Spain, Finland, Latvia, Lithuania, Malta, Romania and Slovakia. In some of these countries, for example Slovakia, anti-bullying policies exist but do not specify the cause of bullying and therefore do not fully address bullying on the grounds of sexual orientation or gender identity.[42] There is a lack of capacity and will to protect LGBT students' fundamental rights in a number of EU Member States:

"[M]any decisionmakers in education politics are not competent to take any decisions; they have neither the knowledge nor the intention to decide whether to support such [LGBT-related] training."
(Headmaster, Hungary)

Education professionals in a minority of EU Member States reported that their national government actively blocked measures to prevent discrimination on the grounds of sexual orientation and gender identity. For example, Romania's Ministry of Education opened an investigation against a teacher from a high school in Bucharest in response to a parent's complaint about educational activities carried out in a human rights course about non-discrimination and equal rights for LGBT persons.

In some EU Member States, a lack of effective national institutions blocks progress. For example, the Observatory on Bullying in Greece was reported to be ineffective by a national public official. A lack of national drivers blocked the development of measures in some countries.

"I would introduce this topic [LGBT persons' fundamental rights] into education curricula. But there is reluctance on the side of the teachers. As far as it is based on the initiative of school, we cannot expect it. Ministry of Education should approve and introduce it."
(School counsellor, Slovakia)

In some EU Member States, particularly Finland, Spain, the Netherlands and the United Kingdom, state schools are relatively independent units. In other words, schools are managed by governing bodies, church bodies or privatised administrations. These are subject to laws and in some cases regulatory organisations, but it is harder to enforce laws than when schools are controlled by government management bodies. Unless initiatives are provided with leadership at a national level, and are mandatory, funded and performance-managed, there may be little success in ensuring that the fundamental rights of LGBT persons in education are safeguarded and promoted. In this respect, it needs to be stressed that, while freedom of religion is a right and thus relevant to the organisation of private (religious) educational institutions, it cannot justify tolerating homophobia or discrimination against LGBTI persons in educational settings.

2.2.4. Barriers concerning implementation

Lack of implementation measures is an issue in schools and universities in most EU Member States taking part in the research. For example, almost none of the education professionals in Poland knew of any positive policies or initiatives regarding the fundamental rights of LGBT persons in their institutions. Polish public officials reported that some interventions have been put in place at national level but the interviews with education professionals showed that they were not aware of them. The lack of connection between national policymakers and those policy officers and professionals working on the ground is a major problem in the field of education.

If information is provided about LGBT issues as part of the school curricula, it is often marginal; for example, sexual education is optional in France. Some curricula that could include LGBT persons' fundamental rights do not cover LGBT issues at all. For example, a public official reported that the Hungarian National Basic Curriculum includes issues of non-violence, tolerance and diversity but ignores LGBT issues. In a minority of cases, professionals said that directly homophobic material was included in school curricula – for example, in social or religious education classes.

Another barrier identified in the interviews concerns teaching bodies in some EU Member States. Poor practice was reported in Bulgaria. One interviewee (a teacher in Bulgaria) and a fellow colleague tried to carry out a survey of bullying in school, but they failed to get the support of the teaching body. In fact, the teaching body accused them of creating problems that were not previously there. In the interviewee's words, the other teachers said: 'You are now causing a problem by talking about a problem' and 'There are no such things at our school, you are causing them'.

Other issues raised by professionals include the absence of professionals addressing LGBT persons' fundamental rights agenda in many educational institutions. For example, a public official in France reported that nurses

42 Slovakia, Ministry of Education, Science, Development and Sports (2006).

are sometimes the only staff members in schools who deal with LGBT issues, which may contribute to the pathologisation of LGBT people. Other barriers include an absence of training and a lack of engagement with NGOs concerned with LGBT rights.

2.2.5. Barriers concerning capacity and awareness

Education professionals in a few EU Member States, such as Croatia, said there is a lack of robust anti-bullying policies in general, which can have an effect on LGBT students. Difficulties with students not wanting to be whistle blowers, and/or not having the confidence that bullying will be dealt with properly, are a common problem in some places, such as France.

A major barrier concerning capacity is that some professionals believe that there is no baseline evidence of the need for work on LGBT persons' fundamental rights. This is reflected in the lack of capacity among these professionals and educators in general to deal with LGBT issues. In many cases, education professionals have little or no experience of dealing with LGBT issues, which affects their capacity to respond to situations:

"[T]here was a student coming to our school from another area [...] who was going to have a gender reassignment operation. [...] I was quite nervous as a study advisor how other students would respond to him/her."
(Student advisor, Finland)

Some professionals accepted and supported wider social barriers (showing indirect homophobia, biphobia and transphobia). For example, a teacher in Bulgaria reported an incident involving a bisexual boy who did not wish to do an extracurricular activity because the other students 'mocked him'. However, this teacher did not take the issue seriously, saying 'they just peck at each other [...] there is no real hatred'. There is evidence that some education professionals resist measures to support LGBT fundamental rights.

"I think that everything should be left as it is. There is no need to focus on it, since it could provoke interest: 'I would also like to try'. But we should not also ignore and keep silent about these problems, i.e. this is a part of society, one could justify or evaluate it and that there could be various opinions on its positive and negative sides."
(Deputy headmaster, Latvia)

Some education professionals revealed directly prejudiced attitudes. For example, a headmaster discouraged a trans person from joining a school in Greece. In an example of poor practice in Croatia, a teacher used the term *peder*, a derogatory term corresponding to 'faggot' in English, when discussing a student. In Latvia, there were reports of teachers using negative terms for homosexuality (such as *pydaras*). In the Netherlands, a teacher reported that a colleague had publicly objected to students doing a presentation about LGBT issues. Several professionals blamed LGBT students for any difficulties they had. These examples demonstrate a lack of awareness and capacity to create safe environments for LGBT students:

"[C]lass masters, as I say, are mainstream teachers, many of them are not [...] human rights teachers, they are average Romanians, are very homophobic and very racist [...] so the child who is harassed, if he goes to the class master, he has very little chances of [...] because he will be told 'come on, dear, stop this nonsense'."
(Teacher, Romania)

Lack of professional capacity in recognising prejudice against LGBT students and tackling it is apparent. Respondents in many EU Member States stressed this, particularly in Bulgaria, Croatia, Greece, Hungary, Lithuania, Malta, Poland, Slovakia and the United Kingdom. In all of the Member States, some promising practices are in place, but many educational institutions are not implementing policies to ensure the safety of LGBT students.

2.2.6. Lack of training

Professionals in almost all of the EU Member States surveyed said they had no training about LGBT issues as part of their standard specialised professional education. The only exception was Ireland.

"I've had literally no training at all about how to deal with it so no, I would not feel comfortable dealing with it."
(Teacher, United Kingdom)

"What should I do if I think a student is... Should I interfere or not? I think we are in a standstill in relation to this. I must admit that we don't know enough."
(Teacher, Denmark)

The respondents indicated a strong need for training, given the limited awareness shown by many educators about issues of LGBT persons' fundamental rights. A substantial number of professionals said they needed training on LGBT issues. However, in some EU Member States, such as Poland, there is evidence that training on the topic of LGBT persons' fundamental rights would meet resistance.

"I really know nothing about it and I'm not particularly interested, to be honest."
(Teacher, Poland)

2.2.7. Lack of resources

As some respondents indicated, in some cases a lack of resources may also be used as justifying inaction by public officials and professionals. However, a lack of resources was shown to be a major barrier to developing LGBT persons' fundamental rights work in EU Member States such as Croatia, Greece, Hungary, Ireland and Latvia. For example, a Greek education professional

described the whole educational system as collapsing and said that in times of crisis it seemed like a luxury to be talking about such issues. Other professionals also reported other priorities, given resource constraints.

"Slovakia has much [more important] problems than dealing with this issue."
(School principal, Slovakia)

"[O]ur focus is primarily on the ethnic issues and on social inequality, because we have students coming from very bad social backgrounds, and it takes a lot of resources to support this group. And this [issue] is much more prominent than that of sexuality."
(Teacher, Denmark)

2.3. Cross-cutting themes regarding schools and universities and LGBT issues

2.3.1. LGBT-specific anti-discrimination and equality policies

The research interviews indicated that there are tensions between the use of general education policies and mechanisms and those targeted towards supporting LGBT fundamental rights. Public officials in EU Member States such as Bulgaria argued for general rather than targeted policies and procedures to address bullying. A large proportion of educational professionals in countries such as Greece and Finland said that all bullying cases should be treated in the same way.

"I wouldn't like to think that kids could get away with being racist but couldn't get away with being homophobic, or vice-versa. If they are discriminatory against anyone they should get the same sanctions."
(Head teacher, United Kingdom)

What is also clear from the interviews is that issues concerning LGBT persons' fundamental rights, such as the right to study in an environment free of hatred and fear of abuse, are not being dealt with effectively in the majority of schools and some universities. This may be for a number of reasons. LGBT students experience discrimination that makes it particularly difficult to report bullying. They may be unable to be open about their sexuality or gender identity to their families and wider communities. They may live in environments where homophobia, biphobia and transphobia are routine. Also, if no effective generic anti-bullying mechanisms are in place, there is little chance of dealing with LGBT-related bullying.

It is possible to conclude that, in a substantial number of cases, the argument that generic approaches are better is used to hide a lack of interest in the fundamental rights agenda for LGBT persons, or outright hostility to it. In other cases, where LGBT persons' fundamental rights are more properly integrated into generic approaches (for example in Ireland), there is evidence of real commitment to that agenda, which then leads to promising frontline practice.

The interviewees reported that targeted approaches are being used in a number of EU Member States, such as the Netherlands and Italy, at the level of individual schools and colleagues. It is possible to combine some targeted work (for example, anti-homophobia/biphobia/transphobia events) with generic programmes that educate students to be tolerant, caring and respectful of diversity. Generic programmes could provide a basis for this – for example, the Croatian government's programme of activities, the Rules of Procedure in Cases of Peer Violence among Children and Young People. In specific professions, such as educational psychology, work concerning the fundamental rights of LGBT persons could be integrated alongside other interventions designed to support diversity (for example, ethnicity, gender and ability). This provides long-term measures to support socially tolerant societies, getting at the roots of the problem as identified by one professional:

"The problem is rooted in the lack of tolerance and can only be resolved through long-term measures and actions and not short-term steps."
(Teacher, Bulgaria)

2.3.2. Diversity in the LGBT populations

As with the public officials, there were indications from education professionals that trans students are particularly at risk of human rights violations in the area of education, due to either a lack of knowledge among education professionals (for example, in the Netherlands) or direct prejudice.

"We [society] are not yet prepared to accept LGBT persons [...] it is easier to accept a homosexual than a transsexual."
(Teacher, Spain)

During the discussions with education professionals, there was little mention of bisexuality or of the specific issues that bisexual students face. There was no discussion of the double discrimination that lesbian women, bisexual women and trans women students face, as both women and LGBT persons.

A few education professionals discussed other diversity issues and LGBT fundamental rights. An example of a promising practice regarding minority ethnic LGBT persons was reported in the Netherlands.

"In South Africa there is an imam, a homosexual imam, he came to the Netherlands some years ago. And also last month he was in the Netherlands. And the media paid a lot of attention to this. That was very important for the 'pink Muslims' to get support from that."
(Teacher, Netherlands)

2.3.3. Variations according to other factors

As with the public officials, education professionals in most EU Member States tended to report that schools and universities in rural areas are more likely to have young people who hide their LGBT identity and/or local communities that are intolerant. For example, two interviewees from the rural Oulu area of Finland reported that their school's worldview lags behind the rest of the country because the local society is more conservative. The impact of local power dynamics (for example, the relationship between local governments, the church, parents and the local media) was seen as forming particular barriers in EU Member States such as Poland. There were some exceptions; for example, one interviewee reported that the Greek island of Thira has a large tourist industry, including gay tourists, and has become more liberal, which also affects schools in a positive way. However, the tendency to oppose the rights of LGBT persons tends to be more common in small towns and rural areas.

"Of course it is clear that in a small rural place like this, between two bigger cities, so the problems will not occur here like in the bigger cities in the bigger schools. Of course it is so that over there [in the bigger cities] lives more different people. Here people are more homogeneous as a whole."
(Vice-principal, Finland)

Some public officials thought that rights were observed better in schools in some demographic areas than in others. For example, a teacher now working in a 'tough' area of Paris said that there was less homophobia in the middle-class school she used to work in. Respondents also indicated that students from some minority ethnic groups harbour homophobic or transphobic prejudices in some EU Member States, such as Denmark and the Netherlands.

There are some differences across different types of educational institutions. Anti-harassment procedures that explicitly include LGBT people are more common in higher education. There are differences between private and state institutions. There are also variations between professions regarding the agenda; for example, more school counsellors, nurses and psychologists than teachers have experience in dealing with LGBT students in some EU Member States.

3 Law enforcement



The interviews with law enforcement officials complemented the findings of the EU LGBT survey. The interview questions addressed a number of key areas:

- including views on the fundamental rights of LGBT persons;
- exploring law enforcement officials' activities on hate crime against LGBT persons, including their personal experiences;
- factors influencing the reporting of LGBT hate crime;
- the role and responsibilities of law enforcement officials regarding hate crime against LGBT persons;
- the specific policies and practices for combating hate crime against LGBT persons;
- training for law enforcement;
- exploring barriers or resistance to addressing LGBT hate crime within the police;
- trends and ways forward, including how to improve policing for LGBT persons.

Violence and crime motivated by bias against the victims' perceived sexual orientation or gender identity affects LGBT persons' enjoyment of the right to human dignity (Article 1 of the Charter), the right to life (Article 2 of the Charter) and the integrity of the person and protection from violence (Article 3 of the Charter).

The Victims' Directive (2012/29/EU) requires individual assessments to take into account the personal characteristics of the victim, such as – among others – gender, gender identity or expression, and sexual orientation. They should also take into account the type or nature of the crime and its circumstances – such as whether it is a hate crime, a bias crime or a crime committed with a discriminatory motive. Victims should receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine if and to what extent they would benefit

Key findings

- Law enforcement professionals see EU legislation and policy, as well as the practice of following the good examples of other EU Member States, as driving forces for improving protection of the rights of LGBT persons and implementing relevant policies.
- Establishing specific institutional structures and mechanisms operating within the police or supporting law enforcement is seen as important and effective for the protection of LGBT rights and improving police services.
- Law enforcement professionals in some Member States stress that there are few or no data on LGBT hate crime rates. This lack of data affects operational analysis, planning and action.
- Law enforcement professionals in only a few EU Member States report promising practices in ensuring that their LGBT citizens can live free from hate crime and discrimination.
- Positive action includes national guidance, training packages and collaboration between law enforcement agencies and LGBT communities to improve safety in public spaces.
- In some EU Member States that lack specific LGBT equality legal or policy frameworks, and where LGBT persons are considered to be less visible, law enforcement respondents identify significant barriers to tackling LGBT-related hate crime and discrimination.
- Overall, most law enforcement professionals interviewed recognise that the fundamental rights of LGBT persons are often violated, as they are frequently victims of hate crime.
- Some public officials and law enforcement professionals interviewed do not consider under-reporting of hate crime against LGBT persons an issue to be addressed.
- Law enforcement professionals argue that policing in rural areas tends to be more affected by prejudice against LGBT people.

- Respondents recognise that cooperation between the police and LGBT NGOs can raise awareness, capacity and quality of public service. This is more difficult to achieve in some eastern Member States because of a historical mistrust between LGBT communities and public authorities.
- Law enforcement professionals in many EU Member States contend that there is a lack of systematic and effective training on LGBT-related fundamental rights issues. Respondents in some Member States attribute this partly to budget cuts and the need to prioritise action against racism, xenophobia and the rise of extremism.
- Generational changes within the police force may act as an important driver in more effectively tackling LGBT hate crime, as younger police officers are reported to be less prejudiced against LGBT persons.
- Progressive changes in social norms, and the general public's condemnation of hate crime against LGBT persons, are seen as important factors pressing for better policing and protection of LGBT persons' rights.
- Good cooperation, partnerships and closer contact with LGBT communities and civil society organisations reportedly increase the police's commitment to dealing with LGBT issues.
- Police internal disciplinary measures are considered to be important means of preventing police malpractice and ensuring police professionalism in providing services to LGBT persons.

from special measures in the course of criminal proceedings. As the directive stresses, persons who are likely to be involved in the individual assessment to identify victims' specific protection needs and to determine their need for special protection measures should receive specific training on how to carry out such an assessment. Member States should ensure such training for police services and court staff. Member States must gather and report data on the number and type of reported crimes.

The directive also carries a strong presumption that victims of gender-based violence often require special support and protection, including a right to special measures in criminal proceedings (i.e. during criminal investigations and when giving evidence in court). Under this directive, gender-based violence is understood as violence directed against a person because of that person's gender, gender identity or gender expression or that disproportionately affects persons of a particular gender (Recital 17).

Member States must also ensure victims' access to support services free of charge, requiring that such services exist and are adequately funded. There is also an obligation to undertake awareness-raising and research measures regarding victims' rights generally and the rights of victims of gender-based violence in particular. Lastly, all categories of legal practitioners coming into contact with crime victims should have general training on victims' rights and specialist training on the specific protection needs of the victims of gender-based violence.

The Council of Europe Committee of Ministers' Recommendation Rec(2010)5 on measures to combat discrimination on the grounds of sexual orientation and gender identity states that Member States should ensure effective, prompt and impartial investigations into alleged crimes and incidents where there is reasonable suspicion that it involves a bias motive towards the victims' sexual orientation or gender identity. Member States should also ensure that such motives may be taken into account as an aggravating circumstance when determining sanctions (in keeping with the Organization for Security and Co-operation in Europe's Ministerial Council Decision 9/09 on hate crime and the Victims' Directive (2012/29/EU)). Appropriate measures should also be taken to combat any expression (including in the media and on the internet) that may reasonably be understood as likely to incite, spread or promote discrimination or hatred against LGBT persons. To further this end, awareness raising among public authorities and public institutions (at all levels) should prevent statements – in particular to the media – that may reasonably be understood as legitimising such hatred or discrimination. Member States should also take appropriate legislative and other measures to ensure the right of children and youth to education in a safe environment, free from violence, bullying, social exclusion or other forms of discriminatory and degrading treatment related to sexual orientation or gender identity.

3.1. EU LGBT survey and legal framework in the Member States of the research

FRA's EU LGBT survey[43] found that over a quarter (26 %) of LGBT respondents had been attacked or threatened with violence in the preceding five years. This figure increases to more than one-third (35 %) for trans respondents, who appear to be the most victimised LGBT subgroup. A majority of respondents who had experienced violence (59 %) in the past year said that the last attack or threat of violence happened partly or entirely because they were perceived to be LGBT. The FRA survey shows that most victimisation is not reported to the police. Only one in five (22 %) of the most serious incidents of LGBT bias-motivated violence in the preceding five years was reported by respondents. Only 6 % of the harassment incidents were actually reported. The most-often cited reason for not reporting the most serious incident of violence (43 %)

43 FRA (2013a).

or harassment (37 %) in the past five years was the perception that the police would not do anything about the case. Fearing homophobic or transphobic reactions from the police resulted in almost one-third (29 %) of victims not reporting the most serious incident of LGBT-related violence occurring in the previous five years.

Trans persons reported experiencing the highest level of victimisation (8 % attacked or threatened with violence in the previous 12 months partly or entirely because they were perceived to be LGBT), followed by gay men (6 %) and then bisexual men and lesbian women (5 % each). This increased victimisation for trans people, at least when in public spaces, is reinforced by evidence from the 'Press for Change' Transphobic Hate Crime in the European Union (2009) study.[44] That research found that nearly four out of five (79 %) respondents had experienced some form of harassment in public, ranging from transphobic comments to physical or sexual abuse (although it should be remembered that transphobic comments may not equate to hate speech and so may not constitute a hate crime, and the incident's status would be dependent upon the individual jurisdiction where the incident took place). The Trans Murder Monitoring project reported that 238 homicides of trans persons took place worldwide in the 12 months preceding November 2013 alone.[45]

Most (13 out of 19) of the EU Member States studied have legislation that prohibits hate crime based on a person's sexual orientation (Austria, Croatia, Denmark, Finland, France, Hungary, Ireland, Lithuania, Malta, Romania, Spain, the Netherlands and the United Kingdom), although two are restricted to hate speech rather than the broader category of hate crime (Austria and the Netherlands). Hate crime on grounds of gender identity is prohibited in seven of the EU Member States covered in this research (Croatia, France, Greece, Hungary, Malta, Spain and the United Kingdom.[46]

Six EU Member States studied (Bulgaria, Italy, Latvia, Poland, Romania and Slovakia) do not have any specific legal measures that take into consideration the motivation of homophobic or transphobic hate crimes. It is also common for public officials and law enforcement officers interviewed in these countries not to acknowledge that LGBT persons have specific issues and needs.

This report examines the drivers behind, and obstacles to, setting up, implementing and sustaining effective policies within law enforcement agencies to combat LGBT hate crime. Consequently, the focus is on the experiences of law enforcement public officials and officers and their views of what is necessary, useful and feasible to prevent LGBT persons becoming victims of hate crime or hate-motivated violence.

3.2. Drivers protecting and promoting the fundamental rights of LGBT people in law enforcement

3.2.1. EU law and policy as guiding force

Public officials stressed the importance of EU directives and the support of the Council of Europe, as well as other international law instruments, in recognising and upholding the fundamental rights of LGBT people. The regulatory function of the EU is seen as a significant way of getting Member States to implement EU legislation and policy. In addition, soft-law policy frameworks may also be efficient. One example of the influence of such frameworks is Croatia's recent legislation combating hate crime, which included sexual orientation and gender identity as protected grounds.

Some respondents identified membership of the EU as an important driver in adopting and shaping policies that strengthen the fundamental rights of LGBT persons to protection from hate crime.

3.2.2. Data and documentation in a globalised world

Several interviewees stressed the importance of publicising research studies, including victimisation survey data, to give an indication of the prevalence and nature of LGBT hate crime. Analysis of anti-hate crime policy and the effectiveness of hate crime interventions and operational practice were also important, as one respondent noted:

"Hate crime is on the international agenda, and this has of course had an impact on the Danish focus. Criticism by international bodies of the way Denmark has handled certain hate crime cases has also played a role. In addition to this, I think that the fact that the Danish Institute [for Human Rights] has documented shortcomings within the police and suggested a strengthening of guidelines in the hate crime area is also an important driver."
(Police chief, Denmark)

In addition to supportive legislation at national level to combat LGBT hate crime, public officials identified international pressure and pressure from civil society organisations (including LGBT NGOs) and wider political support as the key drivers.

44 Turner *et al.* (2009).
45 Website of the Trans Murder Monitoring Project.
46 FRA (2015a).

3.2.3. Following the example of other EU Member States

A number of law enforcement interviewees (in Austria, Croatia, Italy, the Netherlands and Slovakia) mentioned the positive role of some EU Member States as a key driver in developing an agenda for the protection of LGBT persons' fundamental rights. Some respondents identified this liberalisation process as driving a more progressive, open and tolerant society. Several noted that some senior police commanders accordingly supported the development and implementation of measures improving the fundamental rights of LGBT persons (in Poland).

Working Party on Hate Crime

Building on FRA's conference on hate crime, in December 2013, the Council of the EU called on FRA 'to work together with Member States to facilitate exchange of good practices and assist the Member States at their request in their effort to develop effective methods to encourage reporting and ensure proper recording of hate crimes' (Council Conclusions, December 2013).

In response, FRA set up a working party on combating hate crime in the EU together with 28 EU Member States, the European Commission, the Office for Democratic Institutions and Human Rights (ODIHR) and the European Commission against Racism and Intolerance. Its initial thematic work areas were decided in agreement with Member States, the European Commission and ODIHR at a seminar on combating hate crime convened by FRA in April 2014, under the aegis of the Greek Presidency and with the support of the European Economic Area (EEA) and Norway Grants. The inaugural meeting of the working party took place in November 2014 under the auspices of the Italian Presidency, with further meetings convened in cooperation with the Latvian, Luxembourgish, Dutch and Slovak presidencies.

The working party serves to review official recording practices and methods, including the use of monitoring definitions, setting out the type of offences and bias motivations that are officially recorded. It also facilitates the exchange of practices that capture information about hate crime across the law enforcement and criminal justice process, thereby increasing cooperation between relevant agencies, bodies and organisations. Finally, it identifies the training needs of staff employed in law enforcement agencies and in the criminal justice system to enable them to recognise incidents of hate crime. The overall aim is to improve the recording and encourage the reporting of hate crime, to enable victims of hate crime to seek redress.

More information on FRA's work on hate crime is available at: http://fra.europa.eu/en/theme/hate-crime.

3.2.4. Regional and local

There is considerable variation in the level of strategic planning at national, regional and local levels to combat LGBT hate crime among Member States. A few countries have developed comprehensive national-level action plans for LGBT issues. For instance, in 2012, France introduced a national action plan to tackle discrimination and violence on the grounds of sexual orientation and gender identity (*Programme d'actions gouvernemental contre les violences et les discriminations commises à raison de l'orientation sexuelle ou de l'identité de genre*). Poland has developed a national plan to cover all discrimination (Act on Implementation of Certain Regulations of the European Union on Equal Treatment); it includes discrimination on the basis of sexual orientation, makes reference to gender identity, and covers violence against vulnerable groups. Individual ministries and state institutions are assigned specific tasks to deliver the plan.

The establishment of institutional structures operating alongside or within the police was seen as important for championing LGBT issues. For instance, the Garda Racial, Intercultural & Diversity Office (GRIDO) in Ireland, and the Plenipotentiary for Human Rights of the Police Commander in Chief and corresponding plenipotentiaries in headquarters and schools for the police in Poland, both developed police training manuals that cover LGBT issues and train police officers. Promising practice was reported where forces have specific units or officers assigned to tackle hate crime against LGBT persons and to develop good working relationships with the LGBT communities.

"I know the structures for example from Germany, where there is a contact person in every police directorate for same-sex lifestyles and that person is not just here internally for the police officers, but also for the community. He or she is exempted solely for this purpose. Depending on the size by 100 % or 50 % depending on the amount of work."
(Police officer, Austria)

3.2.5. Professional bodies and associations

There was little discussion in the interviews about the role of professional bodies in the Member States, but in the United Kingdom (England and Wales), the Association of Chief Police Officers (ACPO) plays a prominent role in coordinating all aspects of the direction and development of policing. ACPO provides comprehensive guidance on hate crime to all 47 police forces in England and Wales, although not to other parts of the United Kingdom that have their own associations – for instance, Police Scotland (formerly the Association of Chief Police Officers Scotland, ACPOS) – and works very closely in conjunction with the Home Office (the

government department responsible for policing), which also provides policy guidance. Although individual police forces have 'constabulary independence', in practice both ACPO and Home Office guidance set the standard that is adhered to. This approach has led to consistency and standardisation across forces in how hate crime is defined, recorded and reported (data to the Home Office), in how it is investigated by officers and in the victim support service. There is more variability in victim services depending upon force area arrangements and capacity, although again victim support services receive central funding from the government (from April 2014 responsibility for victim services has transferred to the Police and Crime Commissioners in England and Wales).

"We have guidance within our organisation with regards to how officers should deal with hate crimes. In relation to police marketing why they shouldn't [commit a hate-crime], I think we do that with all the work we do in getting people to report."
(Chief inspector, United Kingdom)

The advantages of this approach are that policies guiding operational procedures go some way to ensure consistency of the approach nationally, both in how the police deal with hate crimes and in how victims are treated.

The development of policing with respect to LGBT persons in Europe has also been enhanced by the establishment – in 2004 – of the European Gay Police Association (EGPA),[47] which shares best practices and supports developing European countries to build service provision. The following countries participate in the EGPA General Board: Austria, Belgium, France, Germany, Ireland, Italy, the Netherlands, Norway, Spain, Sweden, Switzerland and the United Kingdom.

3.2.6. LGBT law enforcement officers and cooperation with LGBT communities

One of the key findings identified through the interviews is the positive role of LGBT police officers. Their presence can generate increased awareness of LGBT issues among police officers and, in addition, provide a valuable resource for police organisations to draw on in tackling the under-reporting of hate crimes against LGBT persons.

The interviews indicated that, in some Member States, LGBT police officers have actively worked to improve relationships between the police and LGBT local communities. This work appears to gain most traction when openly LGBT officers have established a recognisable organisation to represent their views and interests within their police force. Examples include Gay Cops Austria, G-Force in Ireland, FLAG in France, and Pink in Blue in the Netherlands. It should be noted that this is not an exhaustive list, as a number of other LGBT police organisations exist in some Member States but were not referred to in the interview data; for instance, the Gay Police Association in forces throughout England and Wales and the Gay Police Association Scotland. It is not clear to what extent other Member States may have such organisations. Typically these organisations do outreach work on LGBT matters, with officers forging links within LGBT communities, advising victims and witnesses about policing efforts and encouraging reporting of hate crimes. However, taking on this role does not necessarily mean that the individual officers have been specifically trained in how to tackle hate crime.

The process of awareness raising and liaising with LGBT communities, according to many interviewees, is important for improving trust and understanding between the police and the wider LGBT communities, itself a prerequisite to addressing under-reporting of hate crimes against LGBT persons. One respondent described the work of Gay Cops Austria:

"[W]e do have the experience and can convey it. We have the experience of the officers, but we also have the experiences from the community. Personal experiences and the experiences of acquaintances, friends and so on."
(Head police officer, Austria)

The work that G-Force undertook in Ireland is an example of promising practice. The organisation provides extensive guidance and assistance to the *Garda Síochána* (Irish police force) when dealing with LGBT victims and witnesses, along with assisting the *Garda Síochána* in developing LGBT hate crime policy. G-Force is officially recognised by its national police force and as such has been tasked with a more explicit policy-orientated role; by contrast, Gay Cops Austria and Pink in Blue are not. This appears to limit their influence and means that members carry out much of the outreach and awareness-raising work in their own time. In addition, where members are fewer, such as in smaller towns and rural areas, the impact of their work is reduced. Other work by these organisations was also considered valuable, such as networking with other European gay police associations and organising international conferences about LGBT concerns and needs within the police (as Gay Cops Austria has). Several interviewees described these events as useful ways of sharing best practices and supporting the building of service provision capacity in other European countries.

Where there were some contradictory views, they were about whether or not the efforts of these 'grassroots' networks within policing will lead to more structural changes in how the police combat this type of hate

47 See EGPA website.

crime, particularly in those Member States where LGBT public policies are relatively underdeveloped.

While the efforts of openly gay LGBT law enforcement officials appear important in supporting and becoming more responsive to the needs of LGBT communities, several interviewees from Catalonia argued that adopting community policing initiatives and its broader philosophy can also assist in building better relationships to LGBT communities.

3.2.7. Perceptions of individual professional responsibilities

The research highlighted markedly different levels of awareness of LGBT issues among law enforcement officials. These tend to mirror officers' views on the applicability and desirability of having specific procedures and guidance when dealing with LGBT hate incidents. In addition, a small minority of officers appeared to question whether some forms of verbal prejudice should be of concern to the police. As one officer noted:

"If someone is called 'gay' or otherwise in the street, I don't know if this is immediately in [the] police's competence. But in case of a physical assault, one should promptly come without any doubt. The same is if there is terror or threats against concrete persons on the internet, then one should promptly react."
(Head police officer, Latvia)

These and similar sentiments were often linked to whether or not the jurisdiction in question had legislation in force prohibiting hate crime in general, or hate crime against LGBT people specifically. A number of other common themes emerged when respondents discussed individual professional responsibilities. Generally, there was a perception that older police officers, especially those officers in more rural areas, are less accepting of LGBT persons' fundamental rights and equality agendas than their younger and more urban counterparts.

Similarly, regional variations in prejudice towards LGBT persons was an important aspect flagged by interviewees. As the EU LGBT survey showed, there is a tendency for LGBT persons living in rural or small town areas to face greater prejudice than those in large cities. However, as law enforcement professionals suggested, there were also differences within countries.

"Difference is not seen as natural here. The attitude is unbelievable: for example, when speaking about transsexuals, in Venice people may snigger, while in Calabria they react by spitting."
(Police officer, Italy)

Several interviewees cited the importance of generational changes within the police force as an important driver in more effectively tackling LGBT hate crime. For instance, one police officer from Poland felt that younger officers were less prone to homophobic or transphobic prejudices than their older counterparts. A number of characteristics, such as having LGBT friends, travelling more widely and experiencing living in other liberal countries with strong equality legislation, were felt to orientate younger officers towards more progressive treatment of LGBT persons.

Several interviewees mentioned the positive role of police internal disciplinary measures as a means of preventing police malpractice and ensuring police professionalism when dealing with the LGBT community. They couched it in terms of having clear guidelines on what constitutes professional conduct and police procedures when investigating hate crime. Respondents felt that direction from senior personnel and wariness of breaching professional standards are sufficient to ensure compliance. As one head of department stated:

"Many colleagues have been fired for criminal offences and inappropriate behaviour. And that is a good lesson for others to think about their own behaviour. The times for pretending to be cowboys is over."
(Head of police department, Croatia)

Two United Kingdom interviewees noted that public scandals triggered by police malpractice can act as an important stimulus to police reform. They instanced the case of Jody Dobrowski (a man murdered on Clapham Common by two men who believed him to be gay), which prompted high-profile public investigations into police conduct, leading to wide-ranging reforms.

3.2.8. Frontline practices and reporting of homophobic, biphobic and transphobic hate crime

Considerable variation appears in the way police forces handle hate crime against LGBT people in the different Member States studied. This variation concerns police procedures and working practices, definitions of LGBT hate crime, official reporting and recording practices, and victim support.

Law enforcement professionals spoke about a number of ways to improve the policing of LGBT hate crime. In Spain, for instance, the Catalonian police developed a protocol (in relation with their police crime data system) for accurate recording of hate crime categories (including homophobia). As one respondent explained:

"It works as a pull-down menu. A victim comes to make a complaint and when the specialist in complaints, the police agent, receives [it], he writes 'hate crime' in the pull-down menu, and therefore you can do a statistical exploitation, but it is not a written form."
(Police officer, Spain)

This is a comprehensive approach, training all new police recruits to identify hate-based motives when investigating volume crime (the type of crime that may have a significant impact on many victims) more generally. In Croatia, a new standardised system of recording hate crimes (including those against LGBT persons) was introduced. This new regional focus on hate crime includes an explicit emphasis on improving professional standards and also monitoring incidents and events (such as Pride marches) for which it is necessary to set up video surveillance in advance to make it possible to retrospectively identify perpetrators.

Croatia

'Track record' is an IT application used in Croatia that allows an officer to follow each individual case of hate crime from the initial report through to the final outcome if the case proceeds to court. This allows officials, including the state attorney, to monitor developments in cases and identify any difficulties. 'Track record' was especially important initially, when local police officers were unsure what to classify as hate crime (Head of police department, Croatia).

Most respondents across the majority of Member States under consideration recognised that there is at least some degree of under-reporting of hate crime by LGBT people (Austria, Croatia, Denmark, Finland, France, Greece, Ireland, the Netherlands, Poland, Spain and the United Kingdom). One respondent drew a parallel with female victims of domestic violence in illustrating the size of the problem.

"We are at the same level as 20 years ago when the Ministry of the Interior fought so that battered women dare to enter a police station [...] when a woman would not have dared to say to a police officer: 'I'm being hit by my husband.'"
(*Police officer, France*)

Where available, victim support services often take a more generic form. The EU Victims' Directive (2012/29/EU) stresses in Article 22(3) that particular attention should be paid to victims who 'have suffered a crime committed with a bias or discriminatory motive, which could notably be related to their personal characteristics'. One example of this – and of good practice – is the Catalonian police's hate crime victims' protocol, implemented by 'Offices for Victims' across all police stations. Victims are contacted and offered counselling and support services depending on their needs. Where partnership working practices have been established with LGBT NGOs, such as in the United Kingdom, there is generally more support available for LGBT victims.

3.2.9. Policing LGBT-related hate crime

Law enforcement professionals reported that some Member States have undertaken a range of proactive measures to try to tackle under-reporting. For instance, in Denmark, this includes actively campaigning to encourage victims to report hate crimes, forming partnership agreements with the local LGBT associations, building capacity within the police (notably in an effort to address the known barriers to reporting incidents to the police and address them in police daily practice) and specialist training in hate crime for some 250 officers. One respondent described the work of a special investigator that illustrated the approach being taken.

"It's the empathy, the understanding, and it is the seriousness [that is important]. Because there is nothing more humiliating for a gay or a lesbian to come and feel subjected to the looks from others because they have the sexual orientation they have. I imagine that would make you feel very bad and you wouldn't tell your story. But here you would be taken seriously from the beginning, and we try to have a receptive atmosphere and create trust."
(Vice police inspector, Denmark)

Other police officers in Member States clearly understand how the nature of some crimes that LGBT people could be vulnerable to, such as robbery, blackmail and incidents of verbal abuse, makes reporting difficult. This is because the LGBT victim would face detailed and potentially embarrassing questions requiring them to explain either their involvement with the perpetrator or the content of the abuse.

3.2.10. Improving response to LGBT-related hate crime: specialised training

In just under half of the EU Member States surveyed, the respondents were aware that some type of specialised training was available (for example, in Bulgaria, Croatia, Hungary, the Netherlands, Poland, regions of Spain and the United Kingdom). There were contradictory reports about the availability of specialised police training in Austria. In several other states (such as Italy and Malta), such training is provided – but only for new police recruits rather than existing officers. By contrast, in Finland, the training is primarily reserved for senior police management. The depth and scope of training appears to vary across the countries, as do its accessibility and the opportunity for officers to undertake it. In the United Kingdom, several interviewees reported that specialist training is available only online, and staff receive such packages poorly and feel them to be inadequate.

In other Member States, police officers said they had not received any specific or specialised training on hate crimes against LGBT persons (Denmark, France, Greece, Ireland, Latvia, Lithuania, Romania, Slovakia and regions of Spain). This means that hate crime and other offences against LGBT people are typically investigated by police officers without specialist training in anti-LGBT bias motivation. Another Member State had just initiated

specific training for all rank and file police officers (Croatia). In recent years, national-level training on hate crime has been rolled out in Spain. Promising practice was demonstrated in Catalonia: the police have been trained to consider all relevant aspects when investigating a potential hate crime incident.[48] As one officer noted:

"There is an entire module that is related to human rights. There is a subject on ontology and human rights that deals with the issue of the specific discrimination against the LGBT population, where there are practices under the form of role playing, that is, police agents must act."
(Police officer, Spain)

Interviewees reported that a small number of Member States were in the process of revising their training provision, which would include an increased focus on discrimination and equal treatment, including hate crime.

In general, the majority of interviewees across most Member States were open to the idea of being trained in LGBT issues. Most found the idea of training useful, and others who had undergone training reported beneficial results in their own professional practice. These benefits can add up:

"When I look at my own case, in the past three to four years I've been to more education than in the 1990s. There's definitely an effect there, you can feel the improvement. [...] When it comes to my police station, for example, it's clear that all institutions dealing with these things are cooperating more closely, they're closer to each other, there are many more contacts than before. So, the way I look at it, our work is much better now because of all that."
(Police officer, Croatia)

Among those who had not undergone specialist training, some specific training needs are highlighted. These include training about the use of appropriate language when addressing LGBT persons, training to address the needs of trans persons and training about procedures in arrests and body searches. Provision of such training was described as a factor that would lead to a more sensitive service for the LGBT community. Informants emphasised the need for clear procedures and guidelines on how to carry out such policing activities in order to ensure a standardised professional service that guarantees high quality and accountability.

Other interviewees offered a range of additional ideas to strengthen training provision, including inviting experts from other countries, running conferences, seminars and exchange events and involving LGBT NGOs in organising such events. Both the United Kingdom and the Netherlands were mentioned by several interviewees as countries that would be well placed to advise other Member States in combating LGBT hate crime, with hosts adapting this knowledge to their local context. Finally, another interviewee suggested sharing resources from police departments that specialise in LGBT issues in other European countries.

At the same time, one of the key findings highlights that a significant minority of interviewees did not see a need for any specific or specialist training in policing LGBT hate crime. The numbers of these fluctuated across Member States (with more substantial numbers in Finland, Greece, Romania and Slovakia) and their reasons varied. The most commonly offered reason against specialised training was to deny that any problem existed that might be remedied by training. One Romanian interviewee summarised this view:

"As long as [hate crimes] are not widespread, there is no intention, nor reason to provide specific training."
(Police officer, Romania)

Others considered dealing with LGBT communities simply a matter of:

"[C]ommon sense, professionalism, and above all open-mindedness [...] if in your mind-set you are not ready to be tolerant, it is not professional training that will make you open-minded."
(Police officer, France)

Similarly, the preparedness of police officers to deal with any crime was generally depicted by interviewees as good. Some respondents did not perceive as necessary specific training on how to deal with hate crimes against specific groups (LGBT). These resistant attitudes present a barrier to implementing specific LGBT-oriented policies and measures because they demonstrate a lack of awareness of specific LGBT concerns, and themselves contribute to under-reporting and under-recording of hate crime.

3.2.11. Partnerships with LGBT organisations

Many public officials and law enforcement professionals recognised LGBT organisations as a major driver for LGBT persons' fundamental rights work across all countries. Some public officials saw it as important that LGBT organisations are frequently involved in consultations concerning policy development in countries such as the Netherlands and the United Kingdom and some regions of Spain.

The work of equality bodies was also seen as important. For example, the Danish Institute for Human Rights was seen by several officials as an important driver for Danish work on LGBT persons' fundamental rights, and

48 For more information, see the website of the Spanish Monitoring Centre on Racism & Xenophobia.

the LGBTI organisation Seta was mentioned by most Finnish interviewees as being an important influence.

There was also some discussion of the positive influence of international LGBT networks, including professional networks and events such as the EGPA conference held in 2012 (conferences are held every two years). Partnerships with LGBT organisations were seen as especially important in countries where specific LGBT equality policies have not been adopted.

Several public officials also mentioned the role of individual heterosexual advocates for LGBT persons' fundamental rights. The same was noted regarding the stance of and support from the general public that does not identify with LGBT persons. For example, in the Netherlands, the general public's response condemning incidents of violence against LGBT people was seen as pushing public officials to act against homophobic hate crime.

These positive views of civil society partnerships were largely mirrored by law enforcement respondents. Overall, they considered such partnerships to be an important driver in combating hate crime against LGBT persons as well as other victim groups. Where this work had been undertaken, there was widespread agreement that establishing cooperative relationships with LGBT NGOs was an important step in building a more trusting relationship between police agencies and these communities. LGBT NGOs were recognised as having local knowledge and expertise that the police could tap into to learn about LGBT persons' problems in the area of hate crimes from those directly affected. As one interviewee argued, measures and procedures to combat hate crime should be supported and 'driven' by the relevant NGOs, and greater cooperation should be established between such NGOs and police stations.

"[NGOs] interact the most with [LGBT persons] and they know better than us what they need. Rather, we can adopt their opinion, instead of us giving them guidelines."
(Police officer, Bulgaria)

There is some indication in the interviews that having closer contact with LGBT communities increases the police's commitment to dealing with issues affecting LGBT persons. NGOs supporting or advocating for LGBT persons were also seen as important because they advocated for LGBT rights and acted as a major driver in making the police aware of the continued importance of hate crime victimisation. For example, several interviewees said that making arrangements concerning the policing of Pride demonstrations (the Baltic Pride March in Vilnius, the Rainbow Pride parades in Bratislava and other gay pride marches in Slovakia) had also resulted in closer working relationships with LGBT NGOs.

Based on the interviews, the extent to which Member States' police forces work in cooperation with LGBT NGOs appears variable. There are promising examples – such as Latvia, where training seminars, conferences, exchange events and consultations on hate crimes are organised by an NGO (Mozaika) in close cooperation with the police college. Interviewees in Poland emphasised two factors as being important to developing closer working relationships between the police and LGBT NGOs: first, the existence of an institutional structure to deal with human rights issues (and having LGBT organisations with a contact person within the police with whom they could talk); and, second, receptive senior police commanders allowing a free hand in working on LGBT-related issues.

Overall, there was widespread agreement that the police benefited from the NGOs' practical experience and knowledge of the problems, as well as their links to international experts in the field, and several interviewees indicated that this work should be expanded in developing training modules and programmes.

3.2.12. Role of people in leadership positions

The interviewed public officials often stressed the importance of people in positions of leadership, including politicians, public officials and media figures, notably their ability to publicly endorse action to tackle the lack of fundamental rights for LGBT people. Examples of this type of advocacy work includes some politicians being present at the 2012 pride march in Latvia and others attending pride events in Hungary. Official leadership is important at national, regional and local levels, as demonstrated in countries such as Denmark, Italy, the Netherlands, Spain and the United Kingdom. For example, in Denmark, local leadership and advocacy can be seen in the municipalities of Copenhagen, Aarhus, Odense and Holstebro, where funding has been allocated to projects in schools and countering hate crime.

The role of leadership in tackling LGBT hate crime was also felt to be important by many police officers across a number of Member States (Austria, Croatia, Ireland, Poland and the United Kingdom). Several respondents emphasised that leadership from police managers was a key driver in facilitating the development of policies for the fundamental rights of LGBT persons in the police, as well as providing leadership through developing and implementing procedures to combat LGBT hate crime at the operational level. For instance, in the United Kingdom, engagement from senior management was thought to have a dramatic effect upon the implementation and development of LGBT hate crime initiatives and policy development. Individuals in leadership positions were seen as championing and driving forward such initiatives. More schemes and initiatives were in place in United

Kingdom police forces in which some of the senior managers were themselves LGBT than in areas where they were not. Interviewees also felt that having the ability to empathise with LGBT people was important for driving forward significant change in attitudes, policies, procedures and interaction with the LGBT community. Law enforcement professionals remarked that individual commitment from senior managers is particularly crucial in those Member States that have no formal obligation, either from legislation or from specific policies formulated at the governmental level, to deal specifically with LGBT hate crime.

Leadership from authoritative public bodies and organisations was also seen as important by some respondents. This type of leadership could take a number of influential forms; for instance, in Poland, the 'plenipotentiaries' have important input into training curricula on LGBT issues as well as reinforcing the police mission statement, which involves treating every member of society with respect.

3.3. Barriers to work concerning the fundamental rights of LGBT people within law enforcement settings

3.3.1. Misconceptions and prejudices within society that fuel hate crime

Public officials identified a number of interlocking misconceptions and prejudices that are particular to LGBT persons' fundamental rights challenges, in particular the idea that hate crime against LGBT persons does not happen. To a lesser extent, some police officers also indicated that this is a barrier. The interviews demonstrated a noticeable lack of awareness among the research participants about homicides and violent crime against LGBT persons. In particular, they were most oblivious to levels of violence against trans persons.

Social acceptance of LGBT persons differed across regions and neighbourhoods. Law enforcement interviewees said this resulted from a number of factors including the characteristics of local residents, the dominant religion and the prevalence of more 'traditional' values in rural areas. A range of interviewees across a minority of Member States reported that outside larger cities police officers could be more resistant to developing specific policies safeguarding the fundamental rights of LGBT persons.

A small number of respondents pointed out that some segments in society view homosexuality and trans identities as sicknesses or as abominations that have to be healed or repaired, or associate homosexuality with paedophilia, wrongly believing that gay men especially should not be trusted with children. A number of these same interviewees mentioned areas about which they still had personal questions and doubts, even as individuals, particularly the suitability of LGBT couples to adopt children (although this was very much a minority view). Some law enforcement officials may share homophobic views, but they are conscious of how this could hamper their professional performance and they are committed to working on it. For example:

"I admit that I find sex between two men repulsive, which probably originates from my cultural background, characterised by a strong religious influence. In spite of that, I know I have to behave in a suitable way when dealing with LGBT persons. But I need to work on it: maybe unconsciously my repulsion causes me to consider some claims less seriously."
(Police officer, Italy)

3.3.2. Role of organisational cultures

The organisational police culture was generally viewed by respondents as conservative, hierarchical and traditionally masculine. As such, it can be interpreted as conforming to traditional gender roles. Several interviewees went further, saying that this institutional culture was in conflict with LGBT concerns and issues, including those of LGBT fellow officers.

Several Slovakian officers reconfirmed the conservative attitude of the policing organisation towards openly gay officers. They believed that admitting being gay would negatively affect their position within the police force as well as their career prospects:

"I have encountered LGBT police officers during my visit of French police offices. In Slovakia, I cannot imagine that. If it was a man, it would very likely threaten his career within police. I have never heard of any openly gay police officer within the Slovak police. Even if anyone came out with his sexual orientation, he could have 'problems' with his colleagues."
(Police officer, Slovakia)

One of the important findings of this research was both covert and overt homophobia and transphobia among some police and prosecutors in a minority of Member States. These tend to take the form of jokes and derogatory remarks, as one officer noted:

"Joking [about these issues] is common practice."
(Head police officer, Hungary)

Another interviewee elaborated on the comments that might be made, such as 'queer' and 'keep your back to the wall', and attributed this to the fact that 'men feel the need to be macho – and make unacceptable

comments'. There is evidence that gay police officers are bullied in some EU Member States.

"Unfriendliness, stupid talking, senseless opinions and so on. That would be the main things. [...] I know from other colleagues, from gay ones, that they are not insulted but simply bullied. They are bullied, bullied severely. And in a hierarchical structure that's always a bit difficult."
(Police officer, Austria)

In some Member States (for example, Austria and Lithuania), respondents showed resistance to the idea of having specialised LGBT officers or specialist units or procedures for dealing with homophobic and transphobic hate crime. One reason is the perception that supporting special measures is a form of reverse discrimination. These officers argued that all victims should be treated in the same way, and they failed to recognise that LGBT victims may have different needs and concerns from other types of victims. Developing ways of reporting and investigating crimes specifically against LGBT people was viewed as a form of special discriminatory treatment rather than as recognising the specificity of this form of hate crime.

"If we do recognise that they are the same people, then it is all right: why should we assign someone else specifically to deal with these people? I mean, if we assign a person to deal and communicate specifically with these people, we are automatically excluding them. And showing that they are different. And, in fact, they are the same. And the mission of the police is to respond to a person's call regardless of one's race, nationality, belief or faith. That's it. That's what it should be."
(Chief of police department, Lithuania)

A number of other practical objections were made by some police officers. These included the ideas that every officer needs such skills; that the presence of specialist officers would justify other officers not dealing with cases; and that emergencies would see specialist officers deployed elsewhere and they would not necessarily be available. These attitudes were present in a significant minority of officers and could become a barrier to developing more effective measures to combat hate crime against LGBT persons and to tackling chronic under-reporting. In addition, some police officers are resistant to the idea that LGBT victims may harbour unfavourable perceptions of the police and that this could significantly drive under-reporting of hate crime.

"As far as the police is concerned, no way! [an LGBT person not reporting for fear of being teased or harassed] Because all policemen are skilled and educated. They have adequate knowledge [...] we are indifferent [sic]. We take a neutral position."
(Police officer, Greece)

3.3.3. Lack of awareness, capacity and quality of public service

The interviews reflect a general lack of awareness of LGBT issues among a significant minority of police respondents within many Member States. This is one of the main barriers among police officers to recognising the special needs, concerns or situation of LGBT persons and providing them with services and policing to the same level as the rest of society. This lack of awareness appears widespread, but more entrenched in some countries (Bulgaria, Greece, Italy and Latvia) than others. Similarly, there is evidence that many officials in several countries, including Austria, Bulgaria, Finland, Hungary, Latvia and Romania, have no awareness, or only minimal awareness, of LGBT persons' fundamental rights initiatives. In a number of other countries, a substantial proportion of officials held the view that there is no problem with the lack of fundamental rights of LGBT persons and that therefore no work is needed. This justification took two forms: either there was no evidence of need and hence LGBT victimisation was invisible, or they saw LGBT people as sinful or deviant.

"The problem generally in Austria, but of course then also in the district, is that this form of crime is not recorded as such. In Austria there are no efforts – through investigations or surveys or in any other form – to record it until now. Hence there are no numbers, there are no official experiences regarding this issue."
(Head police officer, Austria)

As some interviewees put it, an increased awareness of LGBT issues among police officers is an essential precondition for the police to effectively combat hate crimes against LGBT persons. The lack of knowledge and awareness of fundamental rights of LGBT persons keeps the police from dealing effectively with hate crimes against LGBT persons.

Ignoring the problem also translates into ignoring the means and mechanisms needed to tackle it. With the exception of a few officials in countries such as Denmark and the Netherlands, the officials who believed that there is no specific requirement for work on LGBT persons' fundamental rights are located in the countries with the least developed frameworks and policies for LGBT persons' fundamental rights.

As law enforcement professionals indicated, the majority of Member States studied do not appear to have any specific practices, guidelines or instruments in place to combat hate crimes against LGBT persons (Austria, Bulgaria, Finland, France, Greece, Italy, Latvia, Lithuania, Poland, Romania and Slovakia). This is one of the key findings of the research. In these countries, the interviews indicated that most of the respondents were either unaware of or unable to

identify instruments, guidelines, measures or procedures aiming to improve efforts to combat hate crime against LGBT persons. Often respondents justified the lack of any specific measures by indicating that there is no pressing need because there are no cases of LGBT hate crime:

"We do not have any such phenomenon, thus it is not necessary."
(Head police officer, Greece)

In several of these countries, there are at least some measures that could constitute specific procedures, but the lack of awareness of these measures among public officials and duty bearers illustrates a widespread ignorance about them. Even where some measures and procedures have been developed, it appears that only those in specialist and some senior roles know about their existence. Clearly, the widespread ignorance of these measures weakens their application and impact on combating hate crime against LGBT people.

In view of the capacity and awareness needs, it is noted that several respondents pointed to the growth of hate crime against LGBT people in online forums and websites. This indicates that police are aware of this development, although there was little discussion of how to combat it.

3.3.4. Homophobia and transphobia in the police

As a number of officers acknowledged, lack of awareness is the other side of the coin. Homophobia and transphobia can significantly affect attitudes towards LGBT victims of hate crimes. The extent of these negative attitudes is difficult to measure, partly because they can be expressed as jokes or remarks, rather than prejudiced behaviour and attitudes. Nevertheless, the comparative analysis of interviews shows that, while a minority of respondents identified prejudice within policing, it was more common across countries with relatively few or less developed public policies addressing the rights of LGBT persons.

Law enforcement professionals identified a number of cases that raise concerns over the willingness of some police forces to properly and thoroughly investigate attacks on LGBT persons. There is evidence (from remarks made by police officials) that investigations of hate crime against LGBT people are not taken seriously by some police officers. There were some reports of bad practices by law enforcement officers. For example, a gay or bisexual police officer reported:

"I have had the experience myself, that someone held a gun to me [...] I dared to dial the emergency number, 133. Obviously the perpetrator was surprised and took flight. But it could also have ended differently. But in the moment it just all depends on gut feeling. I then reported it and the experiences with the police, so I wasn't at the police at that point, I was still a customs officer, they were very unpleasant and based on that I can understand if a lot of people say 'OK, not a lot happened, let's not file a report.'"
(Head police officer, Austria)

Overall, the respondents indicated that homophobic, biphobic and transphobic attitudes within the police force constitute a major barrier to developing and implementing instruments, guidelines, measures and procedures aiming to combat hate crime against LGBT persons. Several interviewees pointed to the difficulty of eradicating homophobic attitudes within police subcultures, despite the official norms and values of policing, which support greater tolerance of diversity.

3.3.5. Vicious circle of hidden populations and a lack of evidence

The general level of awareness about the extent of victimisation of LGBT persons varies considerably between law enforcement officials and also between EU Member States taking part in the research. One of the key findings is that some law enforcement officials fail to recognise both the reality that hate crime is under-reported in their own force areas and the barriers preventing LGBT populations from reporting hate crime. These smaller numbers of respondents are largely clustered in a minority of Member States (Bulgaria, Hungary, Italy, Latvia, Lithuania, Malta and Romania).

Some police officers appeared to rely exclusively on official statistics as a measure of the actual victimisation of LGBT persons. In some other EU Member States, a majority of interviewees did not believe that hate crimes against LGBT persons occur in their districts (Italy and Spain). A Spanish officer remarked:

"We work here following demand and in this topic we've had no demand [...] there has never been a case."
(Local police chief, Spain)

Often those denying under-reporting or downplaying its significance rely upon the fact that there are few, if any, reported cases as prima facie evidence that such crimes do not exist. Many of them seem content to leave the issue of under-reporting as it is. The respondents also suggested that the situation is also a problem because of the lack of procedures for reporting homophobic, biphobic and transphobic hate crime.

"In our official forms, we simply do not have any 'column' for reporting of such crime. Even if they have reported this crime, we would not be able to record it as such."
(Police officer, Slovakia)

In Greece, there were examples of respondents denying even the existence of such crimes – 'they are not attacked for who they are' (police officer, Greece) – confusing hate-motivated crimes with passion-motivated crimes, or seeing hate crime as restricted to racial bias only. However, there were also officers who identified under-reporting as a problem and a concern.

Working Party on Improving Reporting and Recording of Hate Crime in the EU

FRA has established a Working Party on Improving Reporting and Recording of Hate Crime in the EU in response to the Council Conclusions[49] on combating hate crime in the European Union, which invited Member States to take appropriate measures to expedite the reporting of hate crimes by victims. The working party brings together 27 Member States, the European Commission, the Council of Europe's Commission against Racism and Intolerance, ODIHR and FRA. Member State representatives include staff from ministries, prosecutors' offices, law enforcement agencies, police training institutions and national parliaments. The working party's main themes concern encouraging victims to report and improving recording of hate crime, enhancing multi-agency partnerships for combating hate crime effectively, and promoting training for law enforcement and criminal justice staff.

Of those respondents who did acknowledge under-reporting, many were able to identify at least some of the main reasons for it. They recognised that motives were based on lack of trust in the police or in any ensuing investigation, or being desensitised to violence and harassment. Several also cited the historical memory of repressive police practices when homosexuality was illegal. As one Spanish officer recounted:

"I remember that many years ago talking with older homosexuals they feared the Guardia Civil [...] and they were right to fear them [...] but those were different times."
(Police officer, Spain)

Other respondents identified concern about confidentiality and being 'outed', doubts that the victim's report would be taken seriously by the police, and victims' concerns over being treated with respect.

Lack of awareness about the victimisation of LGBT persons might be worsened by a lack of reliable information on victimisation rates. One recurrent problem mentioned was poor data capture on some police crime systems, where limited functionality prevents recording a specific hate motive related to sexual orientation or gender identity, or, in some EU Member States, any hate motive. These failings were noted by a number of officers, for example:

"Hate is not recorded much as a motive. Nothing like this is officially recorded. Only what happens is submitted to the public prosecutor."
(Police officer, Greece)

"It is no different if the motive is hate. I mean we do not examine the motives but only the result. It is the outcome that would define which police section will deal with it [...] neither is it registered as 'against LGBT'. We cannot report that 'this person who is a homosexual was murdered'."
(Head police officer, Greece)

The interviews indicated a common (and circular) argument among a minority of police officers and officials against having specialist departments, specialist officers or other specific measures and procedures dealing with LGBT hate crime. Professionals point to the lack of such reported cases in their district or region and, by implication, they question the need for such measures. This attitude is more common in a number of countries (i.e. Bulgaria, Denmark and Latvia). At the same time, a smaller number of Member States have conducted victimisation surveys (Denmark and United Kingdom) that indicate a far higher number of hate crimes, which are either not being reported to the police or not being identified by the police.

Other reasons for not identifying a hate motive could be based on concerns about protecting the victim's privacy. For example, a Bulgarian police officer noted that, if it is not obviously important, they 'never ask about the sexual orientation', arguing that such questions can be 'pure curiosity' and the police 'do not invade the privacy of people' (police inspector, Bulgaria). In these cases, asking questions about sexual orientation is often essential for establishing a hate motive, without which the offence will probably not be recorded or prosecuted as an LGBT hate crime.

Overall, the findings show mixed views about the significance of the levels of under-reporting. Even when under-reporting is recognised, some officers do not see it as a problem or they consider the issue to be a 'private matter' for the individual victim.

49 Council of the European Union (2013).

"Maybe in the case of LGBT victims they believe that because of their sexual particularities they have some responsibility for the crime against them [...] or they may be demotivated because of the social exclusion they have faced. But this is their own problem."
(Head police officer, Greece)

Although these types of views are not representative, they are also not unusual. For example, another interviewee thought that under-reporting is desirable because 'if everything was reported we would be full of reports!' (police officer, Greece).

In many cases, some public officials and duty bearers do not see under-reporting as a concern to be addressed. For instance, in Bulgaria, half of the respondents thought that it was up to LGBT persons to report their experiences of victimisation, and that, if they did not do so, then it was not a failing of the police.

3.3.6. Political actors' concerns

Many public officials discussed the impact of party politics and political party support for the LGBT agenda. This is seen as crucially important (for example, in Denmark) in placing barriers to pursuing LGBT fundamental rights and to combating LGBT hate crime.

In a number of countries, many interviewees felt that governments have taken a negative stance towards LGBT fundamental rights (Austria, Bulgaria, Finland, Greece, Latvia, Malta, Poland and Romania). Officials reported a number of countries where the incumbent political parties have blocked progress concerning LGBT fundamental rights (including Austria, Bulgaria, Spain and Finland).

A small number of law enforcement respondents also mentioned the importance of political party support to driving or blocking progress in tackling LGBT hate crime. Concerns about upsetting part of society and religious groups lead to general inertia in the development of specific measures to cater to the needs of LGBT persons.

3.3.7. Lack of trust in cooperation with LGBT communities

The research highlighted the important and key role of cooperation with LGBT communities and relevant NGOS in improving public authorities' responses to, capacity regarding, and awareness of the challenges and requirements concerning the fundamental rights of LGBT persons.

However, in some Eastern European Member States, the main barrier to such mutually fruitful and productive cooperation is a historical lack of trust between LGBT communities and the police. This was seen as being caused by the widespread prohibition of homosexuality in some of these countries in the past. Although respondents who mentioned this issue emphasised that things have changed since then, mistrust is still present, especially among some older LGBT persons.

3.3.8. Xenophobic groups and trends

Some public officials saw the rise of reactionary right-wing and neo-fascist groups in certain countries (including Bulgaria and Greece) as a particular concern, especially in relation to the basic safety of LGBT people. Police officers reported rather scattered influence from broadly xenophobic groups operating in the Member States. This was restricted to Bulgaria, Hungary, Latvia and Slovakia, where some members of these groups were involved in a number of violent or abusive incidents. Unlike public officials, the police interviewees did not generally stress the danger such groups represent to the basic safety of LGBT people. Nevertheless, such groups may include 'mission offenders', namely those motivated to commit hate crimes by the desire to rid the world of persons they consider evil or inferior. Such individuals can pose the greatest potential danger because of their tendency towards premeditated and targeted offenses, in contrast to the more common 'thrill seekers' or 'reactive offenders'.[50]

3.3.9. Resource-constrained policing

A number of officials identified a lack of resources, both financial and in terms of personnel, as a reason for inaction regarding LGBT persons' fundamental rights issues. The impact of the recession and the resulting budgetary pressures makes pursuing LGBT persons' fundamental rights more difficult. However, a number of officials questioned this, arguing that financial pressures are used as an easy excuse for inaction. This was illustrated by inaction even where costs of positive actions are small, such as officials attending pride marches.

A lack of sufficient resources was also highlighted by law enforcement professionals. This is seen as an obstacle to undertaking a range of work on hate crime against LGBT people in half of the Member States. Difficulties resulting from a lack of resources were reported in both all EU Member States covered by the research. Having insufficient staff to properly investigate LGBT hate crime incidents is one of these difficulties.

"[T]he motives are not as thoroughly investigated in other crimes either, just the essential elements of the deed, because there are always 10 other crimes waiting to be investigated. This is the spirit of the times, I guess – that there's shortage of staff and everything should be done as fast as possible."
(Detective Inspector, Finland)

50 Dixon and Court (2003).

A smaller number of respondents also felt that financial pressures affected the ability to conduct activities such as awareness-raising campaigns or developing new measures to combat LGBT hate crime. Other interviewees discussed recent or impending budget cuts that were forcing some degree of institutional reorganisation, and raised concerns about the impact this would have on the current LGBT infrastructure. For instance, in the United Kingdom, an interviewee (police chief inspector, United Kingdom) stated that they had a specialist diversity unit 'but this had been disbanded', leaving the police force to rely on all officers being able to respond to such crimes without help from a specialist team.

The respondents noted that law enforcement professionals experience the pressures of work and of having to manage competing policing priorities while at the same time addressing hate crime effectively:

"We try to keep up. We can barely manage the reports we receive. It concerns all areas. We simply don't have the possibility to carry out investigations. We have enough to do by trying to keep up with the reports we already receive."
(Police officer, Denmark)

This difficulty could be made worse when officially recorded cases of LGBT hate crime are low (as was the case in many EU Member States), as in such circumstances resources may be prioritised to other areas. As one respondent noted, this could occur even when hate crime was a stated priority within that police force, with the risk of it being side-lined.

"I don't think so, to be honest, because everyone is under time pressure. I think it [LGBT hate crime] could be forgotten. If it isn't very clear, I think it could be overlooked."
(Police officer, Denmark)

3.4. Cross-cutting themes regarding law enforcement and LGBT issues

3.4.1. Targeted versus generic interventions

The research indicates that, in the Member States that have not yet adopted specific policies for ensuring the equality and fundamental rights of LGBT persons, many public officials saw the implementation of targeted LGBT persons' fundamental rights interventions as unnecessary (for example, in Bulgaria and Latvia). As mentioned above, some saw targeted action to tackle crimes against LGBT persons as a form of positive discrimination, and that such 'special treatment' risks provoking a wider backlash against work for LGBT persons' fundamental rights.

One area where targeted interventions are more welcome is pride parades. Some public officials and duty bearers saw them as an ideal opportunity to strongly prosecute hate-related incidents against LGBT persons, because they often get a lot of media coverage. Such a practice was seen as having a preventative effect on potential perpetrators and as a way of building confidence within LGBT communities to report victimisation.

3.4.2. Acknowledging the diversity of LGBT populations

There were some contrasting findings when respondents discussed the policing of LGBT hate crime and victimisation. There were different opinions about the safety of LGBT persons in the street, which could be related to the level of the interviewees' awareness or their different work experiences. The risk of victimisation was also seen as being related to geographical location, time of day and the extent to which behaviour was felt to be overt. For instance, a director of a Sofia police station denied that it was unsafe for LGBT persons to hold hands in public, arguing that it is safe:

"[U]ntil the moment they do not overdo it, ostentatiously advertising their relationship."
(Head police officer, Bulgaria)

There were indications in the interviews that victimisation patterns varied by group. Lesbian women were thought to be the least prone to violent assault. In some EU Member States, this could be because affectionate gestures between women in public are not necessarily an expression of same-sex partnership. There was hardly any discussion of bisexual persons' safety, although one interviewee mentioned difficulties dealing with a case of violent assault against a bisexual man who was married. The 2013 FRA EU LGBT survey found that bisexual women were the least likely to be victimised of any LGBT subgroup (4 % of respondents in the previous 12 months), followed by lesbian women and bisexual men (5 % each). Gay men are more likely to be subject to harassment – most likely verbal abuse, but possibly also physical violence, depending on the circumstances and display of affection in public. Again, these findings were supported by data from FRA's survey, with 6 % of gay men having been threatened with violence or attacked in the preceding 12 months.

Officials reported that initiatives advocating for trans people's rights are less developed than those of lesbian and gay people in countries such as Denmark, Finland, Greece, Ireland, Lithuania and Spain. They said that there was less awareness and knowledge about trans

issues than those concerning LGB people among public officials in countries such as Finland.

The trans community was mentioned as being particularly vulnerable, although there were some contradictory views. There was some evidence to suggest that trans persons are the least understood and are more at risk of victimisation, in part because certain clothing, behaviour and gestures might be seen as 'provocative'. This greater victimisation of trans people than LGB groups was confirmed in the recent FRA EU LGBT survey findings, which show that 8 % of respondents had been attacked or threatened with violence in the previous 12 months. By contrast, several respondents said people would not even notice trans persons:

"If they do not voice it and let people know wilfully, then people look at people who are dressed as women as women, and people who are dressed as men as men."
(Head of police station, Hungary)

"You do not see that from the outside."
(Head police officer, Hungary)

3.4.3. EU legislation needed to protect LGBT persons from hate crime

The majority of public officials thought that legislation prohibiting hate crime on the basis of sexual orientation and gender identity is crucial in meeting the rights needs of LGBT people. Law enforcement officers especially stressed this in EU Member States where interviewees reported that legislation does not comprehensively prohibit such hate crimes (Bulgaria, Hungary, Ireland, Latvia, Poland and Slovakia). A lack of legislation is seen as a reason for these EU Member States not having systematic information on the prevalence of LGBT hate crime and hate incidents. However, there are difficulties with the implementation of legislation in some EU Member States where it is in place.

"There are criminal laws enabling us to prosecute criminals [who commit offences for discriminatory reasons]. However, we don't use them, I mean there are legal regulations in place, but I think we lack sufficient control mechanisms. Or, in other words, in our country the issue isn't taken seriously enough, despite everything."
(Head police officer, Poland)

Interviewees in several other states (such as Bulgaria and Slovenia) saw the absence of legislation to combat LGBT hate crime as one reason why it is difficult to adequately investigate or prosecute offences, or to develop mechanisms to address it. Some police officers see verbal harassment as outside of their competence.

"If someone is called 'gay' or otherwise in the street, I don't know if this is immediately in [the] police's competence. But in case of a physical assault, one should promptly come without any doubt. The same is if there is terror or threats against concrete persons on the internet, then one should promptly react."
(Deputy head police officer, Latvia)

Overall, while this research was conducted, the respondents noted that this is a changing landscape, as a number of EU Member States are in the process of reviewing the adequacy of their existing legislation, or setting up working groups to draft a new penal code (such as Bulgaria, for instance).

4

Healthcare for LGBT persons



Healthcare professionals were asked about the barriers lesbian, gay, bisexual and trans people face to accessing healthcare across the EU.

In two sections, the report presents the findings from, on the one hand, the interviews with healthcare professionals for LGB people and, on the other hand, the interviews with professionals dealing with healthcare for trans persons. Although the interview analysis takes a gendered approach, many healthcare issues LGB persons face also concern trans people.

4.1. Healthcare for lesbian, gay and bisexual persons

Alongside discrimination and prejudice, LGB persons also face some health risks not faced by other members of the population. FRA's 2013 survey of LGBT persons found that a considerable proportion of LGBT persons who had accessed healthcare services in the preceding 12 months felt that healthcare personnel discriminated against them for being LGBT. The differences across the LGBT groups were as follows: bisexual men, 8 %; gay men, 9 %; bisexual women, 10 %; lesbian women, 13 %; and trans persons, 19 %. The qualitative research about public officials complements the findings of the EU LGBT survey. The interview questions were designed to address a number of key issues and identify the drivers of and barriers to LGB healthcare provision as perceived by the healthcare professionals. Questions also concerned protocols and standards regarding LGB persons' healthcare, their implementation and any training that may be in place to support professionals in providing healthcare to LGB persons. Interviewees were asked if they thought that LGB persons have specific healthcare needs and concerns. They were also asked about whether or not LGB persons hide their sexual orientation when using healthcare.

Key findings

- Respondents contend that homosexuality is seen as a pathological problem by a large proportion of healthcare professionals in EU Member States including Bulgaria, Hungary, Italy, Latvia, Poland, Romania and Slovakia. In some cases, the pathologisation of homosexuality is still present in medical training and training materials.
- Healthcare professionals report promising practice in terms of policies to ensure that LGB persons can access healthcare alongside other persons and that their specific needs are met.
- Many health professionals are unaware of specific health issues LGB persons may face. This lack of awareness is often related to the discrimination LGB persons encounter in healthcare.
- Some respondents maintain that many health professionals are prejudiced, which could lead to the unequal treatment of LGBT persons.
- Most healthcare professionals who specialise in providing healthcare to trans persons are aware of the discrimination these individuals face and are committed to supporting them.
- The majority of healthcare providers who are not specialists in trans healthcare lack awareness of trans rights issues and in some cases show open prejudice against them. They know little about the diversity of trans persons and other gender identities, often confusing transgender persons with transsexual persons.
- Partnerships and cooperation with organisations supporting trans persons and communities may help raise the awareness and professional capacity of healthcare providers.
- There is evidence of positive experiences and developments concerning the cooperation between trans healthcare professional networks and civil society organisations supporting trans persons.

- The lack of training and information available to healthcare practitioners prompts some to seek self-training on their own initiative.
- Some healthcare professionals stress that psychiatric conditions experienced by trans people are due to discrimination, rather than part of the trans identities themselves, which is a frequent misperception of trans persons' health challenges and needs.

Article 35 of the EU Charter of Fundamental Rights stresses that individuals are entitled to healthcare and a high level of human health protection. EU legislation protecting LGBT people against discrimination beyond the employment sector in areas such as access to healthcare is limited. Although the existing law implementing the principle of equal treatment between women and men is to a certain extent relevant to discrimination on grounds of gender identity, there is no EU legal framework when it comes to discrimination on grounds of sexual orientation in any area outside employment. However, national legislation to prevent discrimination on the ground of sexual orientation in the provision of goods and services has been adopted by a number of EU Member States (Belgium, Bulgaria, Croatia, the Czech Republic, Denmark, Hungary, Lithuania, Romania, Slovakia, Slovenia, Spain and the United Kingdom).[51]

Nevertheless, the EU is committed to tackle health inequalities in general or to ensure the quality and accessibility of health services for vulnerable groups, even if its texts (such as communications and conclusions) do not mention sexual orientation or gender identity explicitly and do not refer to discrimination in health. They have, however, already been interpreted as encouraging health services that address LGBT people's needs. For instance, the EU portal on health inequalities[52] includes in its database good practices regarding LGBT people's health.

Regarding the role of healthcare policymakers and professionals, the Council of Europe Committee of Ministers Recommendation CM/Rec(2010)5[53] recommends the following to member states:

> 33. *Member states should take appropriate legislative and other measures to ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; in particular, they should take into account the specific needs of lesbian, gay, bisexual and transgender persons in the development of national health plans including suicide prevention measures, health surveys, medical curricula, training courses and materials, and when monitoring and evaluating the quality of health-care services.*
>
> 34. *Appropriate measures should be taken in order to avoid the classification of homosexuality as an illness, in accordance with the standards of the World Health Organization.*

Recommendation CM/Rec(2010)5 on health services in a multicultural society[54] recommends that states adapt their health services to the needs of multicultural societies, by developing 'culture competence' for health professionals, which may be defined as the ability to offer effective health services while having due regard to, among other things, the patient's sexual orientation or gender identity.

4.1.1. Drivers protecting and promoting the fundamental rights of LGB people in healthcare

EU trends and national policies

A number of health professionals in countries including Croatia and Hungary discussed wider European forces and trends supporting changes to healthcare provision in their Member State. For example, a Croatian health professional saw the process of Croatian accession to the EU, and the desire to align Croatian legislation with those of other European countries, as a driving force for change regarding the LGB population.

National-level officials who were interviewed in countries such as Austria, Ireland, Lithuania, Poland and the United Kingdom discussed national legislation. They described some promising practices. For example, in Lithuania, an official from the Ministry of Health referred to the Law on the Rights of Patients and Compensation of the Damage to the Health (2010), which prohibits restricting the rights of patients on the ground of sexual orientation.

The interviews with health professionals showed that they were not widely aware of any legislation affecting LGB persons' access to healthcare. There were exceptions; in Croatia, a professional mentioned the protection contained in the 2008 Anti-Discrimination Act, and several court cases dealing with claims of discrimination towards LGB persons. The impact of legislation was also felt in the United Kingdom and Italy:

"[I]t's not like you you're gay and I don't take care of you, also because today everybody is careful how they speak and how they behave, there is always a magistrate behind the door."
(General practitioner, Italy)

51 FRA (2015a).
52 See the portal's website for more information
53 Council of Europe (2010a).
54 Council of Europe, Committee of Ministers (2006).

Under the Employment Equality Directive and the Gender Equality Directive (recast) (Directive 2006/54/EC) concerning equal treatment between women and men, LGBT people enjoy protection under the law against discrimination on the grounds of sexual orientation and gender, both in access to employment and at the workplace. In addition, according to established CJEU case law, existing Union law in the field of equal treatment between women and men also applies to instances of unequal treatment on the ground of gender reassignment. Legislation and case law concerning discrimination on the ground of sex are, therefore, relevant to the position of trans persons under EU law. Respondents consider these directives important in supporting healthcare professionals who identify as LGB themselves. Some of the professionals interviewed in the Netherlands are gay or bisexual and reported that their own sexual orientation makes it easier for them to empathise with patients and build their trust. A few of the health professionals in countries including Hungary, Latvia and Slovakia also discussed professional associations and guidelines as potentially supporting LGB healthcare.

The Council of Europe Recommendation CM/Rec(2010)5 of the Committee of Ministers states that healthcare providers should take into account the specific needs of LGBT persons in the development of healthcare plans and mechanisms. However, the respondents in only a few countries (such as France, Ireland and some regions of Italy and the United Kingdom) showed much awareness of LGB-specific health policies. For example, the French national action plan contains a few elements regarding healthcare needs and LGBT persons, including a commitment to addressing suicide among young LGBT persons. Promising practice is evident in some regions of Italy, particularly in Tuscany, where health issues concerning intersex and LGBT persons were integrated into the Social Health Strategic Plan.

Some public officials discussed specific areas for which targeted policies are provided. There is targeted work around HIV and sexually transmitted disease (STD) services or health promotion strategies that include LGB people (particularly in France, Hungary, Ireland and Latvia). For example, in France, the *Aides* association implemented an HIV-testing network, with rapid tests done by people who are not doctors. It allows association members to provide tests in places frequented by gay men and bisexual people. A number of countries, including Ireland, support research in the area of LGBT healthcare, which helps with developing targeted policies.[55]

Some of the health professionals (for example, in Greece and the Netherlands) reported that health interventions focused on specific health conditions, not target groups. LGB health is mainstreamed into some policies and plans; for example, in Finland, the action plan on sexual and reproductive health includes LGB persons. In the United Kingdom, promising practice was demonstrated when LGB healthcare issues were mainstreamed into health-related legislation.

"So for instance, in the Mental Health Act, we have a Mental Health Act policy which will talk about patients detained or sectioned, there will be specific sections in there that talk about nearest relatives who are eligible and it will talk about same-sex partners, for instance."
(Healthcare manager, United Kingdom)

Healthcare professionals indicated that national structures affecting LGB healthcare provision vary across the Member States. Structures are decentralised in some Member States (including Italy, Spain and the United Kingdom), with varied responsibilities retained at central government level and regional differences in healthcare provision. In a few EU Member States (for example, the United Kingdom), institutions have been established to support LGB fundamental rights.

It is important to note that access to health services by LGBT persons depends on the public funding for those services. For example, health professionals in Malta pointed out that health services are free, which makes them inclusive for LGB persons and other vulnerable groups. Health professionals in Austria reported that the health insurance organisation is a major actor in driving healthcare standards.

Follow some good practices at national level in the area of health mentioned by the respondents or identified by FRA.

Public policies at national level

LGBT action plan (United Kingdom): Working for Lesbian, Gay, Bisexual and Transgender Equality: moving Forward[56] was presented by the government in 2011. In the area of health, it particularly recommends increasing medical staff's awareness of LGBT health issues, supporting the National Health Service (NHS) to collect data on sexual orientation and engaging with trans communities to identify specific health issues faced by this group.

LGBT action plan (Belgium): the action plan against homophobic and transphobic discrimination, presented by the federal government on 17 May 2013, highlights the specific health concerns of LGBT people (in particular, mental health issues) and the need for health services to be targeted and gender-sensitive. In particular, it proposes ensuring that suicide prevention policies pay attention to sexual orientation and gender identity, enhancing data collection on sexual health within quadrennial health surveys and including specific

55 Ireland, HSE National Social Inclusion Governance Group (2009).

56 UK, Government Equalities Office (2011).

questions on sexual orientation in the next survey on young people's health.

Providing information to health services professionals and users (United Kingdom): the NHS has set up a web page specifically dedicated to gay, lesbian and bisexual users of health services, and another one dedicated to trans users. Those pages provide key information related to mental health, sexual health, tobacco and drug consumption, alcohol abuse, gender identity clinics, parenting and coming out. They are also a critical source of information for healthcare professionals.

Local health sector policies and practices

Health services for LGBT users (Liverpool – United Kingdom): hosted by Liverpool Community Health NHS Trust, the Armistead Centre raises awareness of the health needs of LGBT people and aims to increase their access to health services and improve their health outcomes. It offers services to a diverse range of users – including young and older LGBT persons, but also their parents and carers, as well as LGBT people with learning difficulties through its BOLD group (Be Out with Learning Difficulties).[57]

Training of healthcare providers in the area of palliative and oncology care (Ireland): the aim of the project was to support palliative and oncology care staff in delivering affirmative care to their LGB patients and families. It also aimed to increase palliative and oncology care staff's awareness of relevant LGB issues. A 50-minute training module was developed and 200 health and social care professionals participated in 17 training sessions. The project was funded by the Irish Hospice Foundation, the Irish Cancer Society and the Health Service Executive.[58]

Straight allies programme (Nottinghamshire Healthcare NHS Trust – United Kingdom): the Nottinghamshire Healthcare NHS Foundation Trust has set up a straight allies programme that encourages leaders in the trust to take a stance against bullying or negative comments, support the work of the LGBT forum and ensure that the needs of LGB patients and carers are met.[59]

Training of healthcare providers (Vienna City Council – Austria): 18 workshops were held in 2010 on 'Dealing with each other respectfully: sexual orientation and gender identity', targeting personnel managers, doctors, nurses, ambulance crews and other staff. They were organised by the Vienna City Council and the Vienna Hospital Association.

NGO and foundation projects in the area of health

Support to providers of health services (Stonewall – United Kingdom): the Stonewall Health Champions Programme is funded by the Department of Health and managed by the NGO Stonewall. It provides support to NHS organisations to improve their health services for LGB people, through needs assessment, support to establish an LGB network group, training and benchmarking.[60]

LGBT guide for mental health services (GLEN – Ireland): GLEN developed the guide to assist the Mental Health Commission in promoting, encouraging and fostering high standards and good practices in the delivery of mental health services to LGBT people. It was launched in June 2013.[61]

Guide on LGB issues for general practitioners (GLEN and the Irish College of General Practitioners – Ireland): the guide aims to provide general practitioners with information on sexual orientation, LGB health issues and examples of good practices in service provision to LGB patients. It was jointly drafted by GLEN and the Irish College of General Practitioners in May 2013.[62]

LGBT Certification (Federation for Lesbian, Gay, Bisexual and Transgender Rights – Sweden): the LGBT certification programme was put in place by the Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights (RFSL) to provide information on LGBT issues to companies and services providers and hence reduce discrimination. The majority of certified organisations are in the healthcare and social services sectors. LGBT certification takes six to eight months to complete and the certificate is valid for three years.[63]

Awareness raising in care institutions (partnership of four NGOs – the Netherlands): the Pink Passkey project aims to train staff and educate residents in care institutions on specific issues faced by older LGBT people. In addition, it helps to empower older LGBT people living in care institutions.[64]

4.1.2. Frontline service provision

FRA's EU LGBT survey found that one in seven (14 %) of all respondents said they had experienced inappropriate curiosity and 8 % that they had had their specific needs ignored. The qualitative research found considerable

57 More information is available on the website of the Liverpool Community Health NHS Trust.
58 ILGA – Europe's website provides further information
59 More information is available on the website of the Northamptonshire Healthcare NHS Foundation Trust.
60 For more information, see the Northamptonshire Healthcare NHS Foundation Trust's website.
61 The guide is available on GLEN's website.
62 The guide is available on GLEN's website.
63 More information is available on RFSL's website.
64 More information is available on the website of the Netherlands centre for social development.

poor practice in frontline provision (see below), which supports the findings of the EU LGBT survey.

Some promising practices were identified by the public officials interviewed. In a few countries, including Denmark, the identified needs of patients acted as a bottom-up driver. For example, a health professional explained that a counselling function at a clinic for STDs was established as a direct response to the needs of the patients. Another mentioned that certain guidelines about tests for STDs have been developed, as there was a need for this.

"On a specific occasion a colleague of mine called and asked me to intervene because the parents of a gay boy took him to a centre to be cured."
(Psychiatrist, Italy)

With regard to specifically addressing the needs of LGBT persons, a minority of EU Member States engaged in promising practices, including Denmark, France, Ireland, Italy, Lithuania, Malta, the Netherlands and the United Kingdom. LGB-specific measures are present in the provision of sexual healthcare (for example, in Croatia and Denmark). The different needs of lesbian women and bisexual women (including higher rates of cardiovascular disease and certain forms of cancer) and gay and bisexual men (including stress-related illness, substance abuse and sexual risk taking) are acknowledged especially in Ireland and the United Kingdom. Professionals reported that in Denmark, the Venereal Clinic, which treats STDs, has special knowledge of the concerns and needs of LGBT people and provides counselling about STDs. The Danish Stork Clinic also offers specialised services to lesbian couples (fertility treatment) and qualified counselling.

The research showed that some EU Member States have a policy focus on supporting equal access to healthcare for all persons, including LGB persons. For example, in the United Kingdom, the Equality Act 2010 means that no one should now be treated differently on the basis of any of the protected characteristics (including sexual orientation and gender identity differences).[65] This is reflected in the views of most healthcare providers who are aware of LGB health issues. They believe it is good practice to treat LGB persons in the same way as other persons.

"We treat them like all other patients [...] You have to treat their illness, and it is not an illness to be gay or lesbian."
(Psychiatric health centre staff member, Denmark)

"Their orientation is not the subject of healthcare. Unless they speak of it, they are actually treated the same way as others."
(Psychiatrist, Slovakia)

65 Great Britain, HM Government (2010), c. 15.

The provision of a generally high level of healthcare can mean that sensitivity is shown to the specific needs of LGB persons (although it can also mean that their specific needs are overlooked). For example, a healthcare professional reported that some same-sex partners were treated as family members when their baby had to be hospitalised, despite the lack of legal recognition of their status in Malta. Trust, confidentiality, politeness, good communication and a supportive attitude in treating LGB persons were all seen as important by some of the interviewed health professionals.

"First and foremost you must show them that you are aware of their sexuality, and secondly that you don't mind it. You are aware, and it's not a sickness, it's not a disease, it's not something, I mean you don't, you will never treat their sexual orientation, and you will never try to treat it, or refer them to be treated for it."
(General practitioner, Malta)

4.1.3. Attitudes and awareness against pathologising LGB identities

Council of Europe Recommendation 2010(5) states that appropriate measures should be taken to avoid the classification of homosexuality as an illness. Many of the interviewed health professionals rejected the view that homosexuality is pathological. Some also discussed the psychological aspects of care, including helping patients who suffer mental health problems due to experiences of discrimination, which can include rejection by their families.

Healthcare professionals in countries such as Bulgaria, Croatia, Denmark, Greece, Hungary, Latvia, Malta, the Netherlands and Spain appear particularly aware of the lack of fundamental rights that LGB persons face and the implications for healthcare:

"[S]ome people I have worked with still inwardly believe there is something wrong with them [LGB persons]. They have been brainwashed into believing that they are not normal."
(Psychologist, Bulgaria)

"[T]heir only specific health problems may be psychological problems derived from having to hide their sexual orientation."
(Psychologist, Spain)

4.1.4. Specialised training

Council of Europe Recommendation 2010(5) supports the development of training to ensure that health professionals are aware of the specific needs of LGB persons. Healthcare professionals reported some training on 'social competence needs', which included dealing with LGB persons in the course of general healthcare delivery in a number of Member States. These include Austria, Bulgaria, Croatia, Finland,

Italy, Malta, the Netherlands and the United Kingdom. For example, in Austria, the healthcare company (*Krankenanstaltengesellschaft*, KAGesmbH) and the Austrian Medical Chamber (Ärztekammer) are responsible for this training and it is organised by the universities or nursing training colleges and different professional groups. Key issues for such training can include dealing sensitively with LGB patients, informing the patient about confidentiality standards and involving the partner of the patient if requested. Professional networks can assist with training. The health professionals discussed a range of voluntary training concerning health and sexual orientation. This includes online training used in Ireland, provided by the Fenway Institute. In Italy and Latvia, several specific training projects have been developed using EU funding. Peer exchanges and support concerning LGB healthcare are evident in countries such as the Netherlands. In the United Kingdom, training is included together with wider equality and diversity training, and promising plans were evident in some places.

"LGBT training is incorporated into the generic E [equality] and D [diversity] training. There is nothing specific around LGBT training."
(Healthcare officer, United Kingdom)

The interviewees reported that university courses may include specific training about LGB issues. For instance, the Danish Association for Clinical Sexology (*Dansk Forening for Klinisk Sexologi*) offers a course in sexology for healthcare personnel. Some training is also provided on mental health issues and LGB. Promising practice is illustrated by a head of medical practice at a child and adolescent mental health hospital in Hungary, run by a foundation that provides care for inpatients and outpatients. This specialist reports that, in all her training courses for students training to be child and adolescent mental health professionals, she always refers to homosexuality not being an illness. In some cases, individual leadership is important in the area of LGB healthcare training.

Although it cannot be labelled a promising practice, an individual initiative by some Bulgarian healthcare professionals deserves to be highlighted as a response to the lack of training in the country. An interviewee, a psychotherapist working in a public hospital in Sofia, has together with 'several other young colleagues' found training courses on LGBT issues abroad to further their education. The interviewee says they are dedicated to providing good-quality healthcare for LGBT persons and very much feel the need for training on LGBT issues. Since no such training is provided in Bulgaria, they seek opportunities abroad in spite of the hostility shown by some staff members in the public hospital. They do not receive any financial support and pay all costs themselves. When someone from this enthusiastic group of colleagues returns from training abroad, she or he trains the others in the group.

4.1.5. Partnerships with LGB organisations

LGB and LGBT organisations were seen by a number of public officials and health professionals as playing an important role in access to healthcare services for LGB persons. In the majority of Member States, the NGOs were seen as driving change in this sector. For example, two health professionals in Croatia saw LGBT persons' fundamental rights NGOs as key drivers for change in that country. The Croatian NGO Lori has provided counselling services to LGBT persons and parents of LGBT persons, and the HIV/AIDS testing and counselling centre has established a collaboration with a gay rights NGO. Promising practice is evident in other countries, including Ireland and the Netherlands.

"It's very good news that the ministry has established a consortium Pink 50+, in which various gay organisations are represented. That consortium consists of the Ouderenbond, a know-how organisation, and a gay interests organisation. And the good thing is that they are now the interlocutor of the ministry. They receive subsidies to initiate projects in the care sector to increase gay-friendliness, in order to support the well-being of homosexual people." (Psychological nurse, Netherlands)

NGOs were reported as delivering healthcare to LGB persons in some EU Member States – for example, in Ireland, where they are funded by the government to do so. A few professionals saw LGB NGOs as providing a means of targeted service provision:

"It is important to be able to use the established system and at the same time be able to use voluntary services. There isn't too much room for adapting the treatment to individual health needs. Therefore, there is a need for the voluntary services."
(Psychologist, Denmark)

4.1.6. Barriers to work concerning the fundamental rights of LGB people within healthcare settings

Religious beliefs

The respondents indicated that healthcare services' approach towards healthcare provision for LGB persons may partly be related to religious beliefs. For example, in Ireland, some interviewees reported that the reluctance of medical practitioners to acknowledge and address LGBT health needs is reinforced by the ethos that prevails in many hospitals, some run by religious orders.

"The personal attitude of the doctors and the medical staff – they are the product of the society and, therefore, they reflect what one can find in the society. They are not hugely more educated, tolerant or understanding. No, they are as much prejudiced, narrow-minded, with their own opinions and beliefs. The bulk of the people have uninformed, neutral attitude and then there is an active minority, largely driven by religious [Christian beliefs]." (Psychotherapist, Latvia)

A substantial number of the healthcare professionals believed that there is a lack of legislation to ensure that LGBT persons have fair access to healthcare – even though this is not actually always the case, as many Member States do in fact have such legislation in place.

Social prejudices and misconceptions

The respondents expressed concerns about healthcare and the way that social prejudices and misconceptions negatively affect LGB people's health. These include overt prejudice and resulting behaviours, including violence and abuse. Other prejudices, such as the idea that LGB people should hide their identities, also affect LGB persons; for example, they may avoid using healthcare services (see below). In some countries, there were still widespread misconceptions about homosexuality and bisexuality.

"Sadly, around 80 % of people are not accepting LGBT persons and think that this is something 'not normal'." (Sexologist, Bulgaria)

Healthcare professionals in Latvia and Lithuania pointed to the legacy of the Soviet era, with its emphasis on secrecy, as constituting a barrier to access to healthcare by LGB persons.

"This is more about our social and cultural [heritage] [...] Maybe some influence had those 50 years [of the Soviet regime], when we did not see and know anything, everything was taboo and everything was forbidden." (Nurse, Lithuania)

Continued pathologisation of LGB persons

Council of Europe Recommendation 2010(5) states that appropriate measures should be taken to avoid the classification of homosexuality as an illness. However, healthcare professional interviewed in countries such as Bulgaria, Hungary, Italy, Latvia, Poland, Romania and Slovakia spoke of 'catching' homosexuality. In Romania, half of the professionals interviewed viewed homosexuality as a disorder.

"We consider that these illnesses are generated by the fact that these people had an unhappy incident during childhood and then they try somehow to respond to this need in a different way than the other people. [...] [Our doctors] treat them as people who have a disorder [...] not necessarily an illness. When [a homosexual] goes for the first time to a medical department [...] then it is for sure that that person is regarded by employees, starting with the bodyguard and ending I don't know where, as plague-stricken." (Nurse, Romania)

Homosexuality is still seen as pathological by a large proportion of healthcare professionals in Member States including Bulgaria, Hungary, Italy, Latvia, Poland, Romania and Slovakia. In some cases, respondents argue that medical training still pathologises homosexuality.

Hidden populations and lack of evidence

Professionals in countries such as Denmark suggested that, if patients feel that they cannot be open about their sexuality, this may have negative effects on their treatment in areas such as mental health. In the majority of countries – including Bulgaria, Croatia, Finland, Greece, Italy, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and the United Kingdom – professionals reported that LGB people are afraid of unfavourable treatment, making them distrustful of healthcare providers.

"If he had a lot of hurtful experiences, then he tries not to show, not to mention, to hide [sexual orientation ...] maybe even use of the medical services is limited [...] being afraid, avoiding, not wanting because of this negative personal experience." (Nurse, Lithuania)

The EU survey showed that there is a link between LGBT persons being open about their identity with healthcare providers and experiencing negativity. This is especially true of bisexual men and women and trans respondents. Those who are open to medical staff and healthcare providers are at least 50 % more likely to have experienced such problems than those who are not open. LGB persons may hide their identity to avoid discrimination. This raises problems for healthcare providers. Many health professionals addressed the fact that LGB persons' health issues are hidden. For example, some of the professionals in Spain suggested that the lack of contact with people known to be LGB is a barrier to developing healthcare for these persons. Some of the professionals in countries such as Denmark and the Netherlands reported that healthcare staff who do not specialise in sexuality-related services are reluctant to ask patients about their sexual orientation:

"[W]hen we are talking about work at a hospital, there is a tendency to not want to touch upon such themes. This is a limitation. And you will often find aspects explaining why a patient is depressed if the patient is gay, for instance. It can be a case of conflicts related to relationships, life style and so on." (Doctor, Denmark)

Barriers at the level of national and regional administration

Some of the health professionals in countries including Bulgaria, Latvia, Malta, Poland, Spain and the United Kingdom discussed barriers to LGB persons' access to healthcare at the levels of national and regional administration. In some countries, the problems have to do with a lack of overall leadership concerning LGB access to health.

"I would attribute the deficits more to aspects rooted in politics, social level, the absence of public health policies, the absence of an overall perspective from the Health Ministry and the public health system, than to individuals themselves."
(Gynaecologist, Romania)

Poor practice at policy-making level was evident in Bulgaria. A healthcare professional reported that a small group of colleagues suggested policies concerning LGBT persons and healthcare to the Bulgarian Ministry of Health, but they were rejected. Another Bulgarian professional discussed the lack of national health strategy and failure to access European funds.

"There is no operational health programme. This is the great fault of the [then] government, which did not negotiate the possibility to have millions, billions, to enter the field of healthcare reform. Some of it could have been used exactly on these issues – adjusting the system to the needs of LGBT people. In the new framework of European funding, healthcare is again missing – all projects that are associated with it have to go through the Ministry of Labour and Social Policy, and there the focus is being shifted and becomes different."
(Psychotherapist, Bulgaria)

Some interviewees said that, although some officials on national bodies sometimes support LGB persons' healthcare access, there are other officials who block this work. For example, a health professional in Latvia reported that the Ministry of Health is responsible for organising training concerning the special issues of LGBT persons and the preparation of guidelines. However, this interviewee also said that the officials there are not aware of the specific problems faced by LGBT persons. This lack of awareness is found elsewhere, too.

"The most important barriers related to the attitudes by Public Administrations, as this is a minority population. Public Administration do not see it as a problem, as a population with specific needs."
(Head of mediation service, Spain)

Poor practice was reported in some countries, including the United Kingdom. A United Kingdom professional said that pilot schemes dealing with LGB persons' access to healthcare have been developed, but are not being spread across the United Kingdom. There is evidence from a minority of countries – including the United Kingdom and Poland – that senior managers of healthcare organisations sometimes block LGB healthcare work or do not acknowledge the need for it. There is also some evidence that, in some cases, professional medical associations block progress concerning LGB persons' access to healthcare. For example, Italy's medical guild was reported as being unsupportive.

No LGB-specific protocols, policies and guidelines

Public officials and healthcare professionals reported no specific official policies or protocols regarding LGB persons' healthcare in any of the Member States. Measures to ensure that LGB persons enjoy access to healthcare were believed to be incorporated into more general policies or protocols in only a minority of countries – for example, Denmark and the United Kingdom. In some cases, these are limited to specific sectors – for example, sexual health in Malta and HIV prevention in Hungary. In a number of countries, professionals only mentioned protocols concerning confidentiality and basic medical ethics. However, in countries such as Bulgaria, these do not include sexual orientation and gender identity.[66]

Very commonly, the health professionals who were interviewed about LGB-specific protocols saw them as not needed in countries including Croatia, Greece, Slovakia and Spain.

"There is no need for such protocols. LGBT persons enjoy the level of healthcare of the general population."
(Surgeon, Greece)

In a few countries, including Austria and Latvia, there were issues with healthcare professionals disliking protocols and seeing them as generally unhelpful. This makes it hard to implement top-down initiatives.

Even when some measures to support LGB persons' access to healthcare are included in general policies, they are not always implemented. For instance, the first National AIDS Strategy in Hungary (*Nemzeti AIDS Stratégia 2004–2010*) supported the reduction of prejudice against LGBT persons, but, because it lacked resources and political support, no relevant programmes were implemented.

According to some interviewees, collaboration between healthcare providers and LGB NGOs is quite limited across the Member States, although there were exceptions – such as the Netherlands and Malta. In the countries where no collaboration is taking place, it can be difficult for policymakers and health professionals to know what issues LGB people face regarding access to healthcare.

Improving and encouraging access to healthcare for LGB persons

There are only a few specific healthcare measures for LGB persons across the Member States. The provision of sexual health and STD-related services is an exception. There are some countries where very few or no measures

66 Bulgaria, Minister of Health (2000).

to improve LGB persons' access to healthcare were reported, including Bulgaria, Latvia and Romania. There is also little evidence that healthcare organisations are communicating that they are friendly towards LGB persons.

"I, here in my city, have never seen any sort of poster, leaflet, message or clear policy established by the leadership of medical institution for [...] so called positive discrimination, to provide support in overcoming the communication barriers or the [LGBT persons'] reticence in accessing medical services." (Emergency doctor, Romania)

Healthcare provision to LGB persons is reported to be very problematic in several specific areas. For example, Irish professionals discussed a lack of proper service provision in relation to partner visits, palliative care and decision-making regarding treatment when an LGB person is seriously ill. In many other countries, health professionals were not even aware that these areas can be difficult for LGB persons.

Confidentiality issues were seen as a major problem in a few countries, including Bulgaria, Greece, Lithuania, Latvia, Poland and Spain. For example, an epidemiologist in Bulgaria reported that many practitioners violate the Hippocratic Oath by revealing personal information about patients. Also, systems are not always put in place to protect patient confidentiality.

"Unfortunately the system and the way of organisation is not helpful. For example, within a room with other patients, personal data are violated and this is not right. Hepatitis becomes a public issue and all of us doctors, nurses, should be more discreet and better organised [...] unfortunately this is not a priority of the system." (Doctor, Greece)

Respondents from the Netherlands noted difficulties in maintaining complete patient confidentiality because of the need for different medical professionals to access a patient's health record.

Lack of awareness among healthcare professionals

Healthcare professionals' inexperience in dealing with LGB patients causes difficulties that respondents highlighted in several countries (for example Croatia). There were a few examples of health professionals who had a supportive approach towards LGB persons but misunderstood the LGB patients' identities. For example, a professional said that her colleagues might believe that bisexuality is just a phase of development, not a sexual identity like lesbian or gay. Other examples concerned stereotypes.

"If you are dealing with gay people, they are a bit more squeamish, you have to treat them a little bit more gently because, e.g., they faint more often when a blood sample is taken from their veins." (Gynaecologist, Lithuania)

In a few countries, it was clear that homophobia had a very negative effect on health practitioners' ability to provide care. This may be due to a lack of awareness and training among otherwise competent professionals.

"I have a colleague who is a gynaecologist, very well intended, relaxed and a good professional [...] [O]nce discussing about a gay couple with her, she said that she was really paralysed and that she was not able to ask the question [...] because when she had asked it, the answer paralysed her [...] [S]he tried to close the session and refer the case [...] although she was aware that this type of reaction was absurd." (Gynaecologist, Romania)

Harassment by healthcare professionals and organisations

Homophobic and transphobic harassment remains a problem that seriously undermines the quality of services provided. For example, several Bulgarian healthcare professionals reported that LGB patients were regularly mocked and verbally abused by healthcare staff. A few respondents used negative language during the interview – for example, the Bulgarian word *педерасти* ('faggot') (Nurse, Bulgaria). Respondents also spoke of LGB harassment linked mainly to refusing to treat HIV-positive patients, and perform HIV testing, when a patient identifies as gay.

Issues with training

Professionals in a number of countries, including Croatia, Greece, Hungary, Italy, Ireland, Latvia, Malta, the Netherlands, Romania and Slovakia, reported a lack of training or insufficient training on LGB health issues.

"Many doctors, all doctors, are not trained on how to deal with these matters, even on how to approach a patient about sexuality, how to take a sexual history [...]. We as doctors, as a profession, we are not aware as much as we should be about people of different orientation. Many doctors are afraid, they shy away from the subject, it's like they've entered a big minefield." (Medical consultant, Malta)

Although professionals mentioned that some training about issues affecting LGB persons is available in EU Member States, they said that this is very limited. Where training is available, it is usually voluntary and not systematically organised. There is a particular difficulty with untrained nurses and general practitioners. For example, in Ireland, four healthcare professionals identified the lack of training on LGB issues for general practitioners as a real problem.

An issue of particular concern that emerged when the interviews were analysed is that in a few countries, including Poland and Bulgaria, the general training provided for healthcare professionals shows very poor

practice. It was reported that, in Poland, LGB identities are either overlooked in medical school or presented as a mental illness or sexual behaviour disorder. Poor practice is also present in Bulgaria.

"Healthcare in Bulgaria is indeed in pre-history. Overall, when textbooks are written, a textbook from 1960s or 1950s is taken, scanned and again given for print, with only the names of the authors' team changed."
(Psychotherapist, Bulgaria)

The outdated training that presents homosexuality and bisexuality as pathological contributes to the pathologisation of homosexuality within societies and works against fulfilling the fundamental rights of LGB persons.

Resource constrains in healthcare

The lack of resources constitutes a major barrier to developing healthcare that addresses the needs of LGB persons. The respondents flagged this in most Member States, including Bulgaria, Denmark, Greece, the Netherlands, Slovakia, Spain and the United Kingdom. For example, in Greece, a health professional said that EU legal provisions on LGB health cannot be implemented because of budget cuts. Long waiting lists for treatment were generally noted in various countries, including Spain. A severe lack of healthcare staff was reported in countries including Bulgaria, Hungary and Poland.

On the other hand, resource constraints may also be used as an excuse for failing to take action to ensure equal treatment of LGB persons in healthcare. Even when resources are limited, some aspects of LGB persons' fundamental rights can be supported – for example, public statements welcoming persons to healthcare settings regardless of their sexual orientation.

4.1.7. Cross-cutting themes regarding healthcare and LGB issues

LGBT-specific versus general anti-discrimination and equality policies

Almost all the public officials interviewed, across all Member States studied, supported mainstreaming LGB-related measures in healthcare, rather than using targeted LGB-specific measures. Some healthcare professionals and many officials in countries including Bulgaria, Hungary, Malta and Poland thought that LGB persons' needs were sufficiently dealt with by the existing services.

"Based on what we see, the equal opportunity of LGBT persons in accessing healthcare providers is secured."
(Secondary care officer, Hungary)

"I wouldn't wish to see it that way [as a separate policy]. I would much rather see all policies and procedures [...] an embedding of reference to LGBT within the whole policies."
(Chief executive, healthcare professional, United Kingdom)

However, a few public officials – for example, one official in Ireland and some in the Netherlands – argued that a targeted or centralised LGB health strategy would be more effective.

"You have to watch it that you don't make things too specific [...] But sometimes I think it is necessary to pay extra attention to change things."
(Senior medical advisor, Netherlands)

Some of the health professionals also thought that targeted policies regarding LGBT people are necessary. For example, a Latvian doctor suggested that guidelines would be useful for health providers to know how to better communicate with LGBT persons, who need a special approach from a psychological point of view.

"Perhaps just from the point of view of psychology, [there is a need of guidelines] about attitudes towards these people, e.g. how to deal so that not to offend them."
(Senior nurse, Latvia)

Overall, most argued for general healthcare provision to all persons, including LGB persons. Most LGB persons' health needs are the same as other peoples' health needs. From this perspective, targeted interventions can be seen as either unnecessary or as privileging LGB persons over other members of the population.

The arguments for targeted provision are that measures are required to remedy the disparities in access to healthcare that LGB persons face and the discrimination they experience. These are often not obvious to healthcare providers because LGB persons are often not open about their sexuality and there is an admitted lack of awareness among healthcare professionals. In addition, there are specific issues concerning the fundamental rights of LGB persons, such as involvement of same-sex partners, and there are some specific health needs, especially concerning sexual and reproductive health, mental health and substance abuse. Nevertheless, it has been noted that there are some situations where general approaches that include sensitivity to issues such as same-sex partners are relevant (for example, cardiology) and others that may require targeted approaches (such as gynaecology).

Diversity depending on the role of healthcare professionals

There are some notable differences depending on the specialisation and the role of healthcare professionals. The few professionals who routinely dealt with LGB persons who were open about their sexual orientation were

much more aware of the issues they face. These professionals were working in areas such as sexual healthcare and fertility clinics. There were also a number of examples of good practices among mental healthcare professionals such as psychologists, who are aware of the social prejudices that LGB persons face. Differences between professionals' awareness depend on their position within the healthcare system. For example, in the United Kingdom, the patient-facing staff tend to treat LGB patients the same way as others. The healthcare professionals who worked in more managerial roles, such as equality and diversity managers, recognised that LGB persons had some specific health needs. Some staff in managerial positions realised that different approaches are required depending on the situation.

"We need to target services for them. But the way that they are treated at a reception desk at a surgery should be the same as anyone else."
(Head of patient experience, United Kingdom)

Acknowledging diversity among the LGB populations

The interviews with public officials and healthcare professionals indicated a tendency to treat lesbian, gay and bisexual persons as a single group, and a lack of awareness of the differences between them. In sexual health services and reproductive services, people showed greater awareness that lesbian, gay and bisexual persons have different health needs.

In practice, the term 'LGB' was often used to mean gay men; less attention is given to lesbian women. There is very little awareness of the health issues that bisexual persons face. The situation of bisexual persons was hardly mentioned, or not mentioned at all, by most interviewees. This invisibility is reflected in healthcare provision. For example, professionals in Ireland reported that compared with gay men, less attention is given to bisexual men, who may feel particularly vulnerable about the need to inform their partner(s) about STDs since they may not openly identify themselves as involved in same-sex relationships.

There was little evidence that healthcare professionals have considered the different needs of younger and older LGB persons in healthcare provision. The attention given to older LGB persons by Dutch healthcare professionals was an exception. There was also little discussion about the health needs of LGB persons from ethnic minorities. However, in countries such as Greece and Finland, interviews indicated that LGB persons who suffer multiple disadvantages (for example, being immigrants) face a higher risk of health problems. For example, a healthcare professional in Finland reported that LGB immigrants might not bring up issues relating to their sexual orientation because of language difficulties or cultural differences.

Other factors affecting access to healthcare

The respondents indicated that LGB persons' access to healthcare services is usually most difficult in small towns and rural parts of the EU Member States. For example, Dublin and Riga were seen as cities where services were being developed, but services in rural parts of Ireland and Latvia were much more of a problem. A Bulgarian healthcare practitioner reported that privacy is non-existent in small towns and villages, so LGBT people move to cities, where they may face isolation and economic insecurity.

The economic circumstances of individual LGB persons are a factor affecting the healthcare that they can access, especially in countries where healthcare is paid for by certain types of insurance, such as Italy.

"In some cases it may be that they do not have a financial coverage at work and then it can happen that they do not have access to health services because then the benefits must be paid in some cases. It depends on their economic level. For the rest, I think they have access easily."
(Nurse, Italy)

4.2. Healthcare for trans persons

Protection against discrimination in EU law needs to be extended to more grounds and areas. This need is particularly apparent in the case of gender identity, which is currently not explicitly protected by EU anti-discrimination legislation in the context of accessing healthcare services.

FRA's 2013 survey of LGBT persons found that trans persons are the most likely of all LGBT subgroups to feel that they have been discriminated against, especially in healthcare. Some 19 % felt that they had been personally discriminated against by healthcare personnel in the previous year.[67]

The qualitative research about public officials complemented the findings of the EU LGBT survey. The interview questions were designed to identify the drivers of and barriers to the provision of healthcare to trans persons, as well as protocols and standards regarding trans persons' healthcare and whether or not they were being implemented. Questions asked if professionals thought that trans persons have specific mental and physical healthcare needs and that trans persons' healthcare needs were being met. They were questioned about whether or not they thought that trans persons avoided using the healthcare system. They were also asked about actions taken to overcome barriers to trans persons accessing healthcare, including

67 FRA (2013a).

any training provided for healthcare professionals. Trans healthcare is defined here as specific measures to allow trans persons to live as the gender they identify as, but also as access to general healthcare procedures, some of which may be affected by their gender identity. To accommodate their specific needs and measures, specialised clinics typically provide (or coordinate) psychological services, surgery, urology, endocrinology and, in some cases, related services such as speech therapy.

Council of Europe Recommendation CM/Rec(2010)5 of the Committee of Ministers identifies important standards for countries to start working towards. The recommendations emphasise the role of healthcare policymakers and professionals:

35. *Member States should take appropriate measures to ensure that transgender persons have effective access to appropriate gender reassignment services, including psychological, endocrinological and surgical expertise in the field of transgender healthcare, without being subject to unreasonable requirements; no person should be subjected to gender reassignment procedures without his or her consent.*

36. *Member States should take appropriate legislative and other measures to ensure that any decisions limiting the costs covered by health insurance for gender reassignment procedures should be lawful, objective and proportionate.*

4.2.1. Drivers protecting and promoting the fundamental rights of trans persons in healthcare

EU trends and national policies

The interviews with policy officials and professionals suggest that healthcare is crucial for this group because of the key role the medical system plays in providing hormones, surgery and psychological support to many trans persons.

Public officials dealing with general policy were more aware of the impact of EU policies than healthcare providers. Some drew on EU policies to develop national policies.

"I do not think we can talk about a European Union policy in this field [healthcare] [...] these are not directives. We know about them absolutely, we naturally try to form our policies in the healthcare field in line with those directions."
(Secondary care officer, Hungary)

The pressure created by EU policies, as perceived by public officials, can be seen as a driver of change for trans persons' healthcare.

A number of interviewees spoke favourably of the changes in national legislation supporting trans peoples' fundamental rights, which also affect healthcare provision.

"I think that we are in a pioneering situation in that sense that the name change just on the basis of the diagnosis is permitted in very few countries. So that there is no need to operate or destroy anything."
(Deputy director, psychiatric & psychotherapeutic clinic, Hungary)

"[P]eople who feel trans [...] no longer have to undertake hormonal therapy or gender re-assignment surgeries for a change in civil status. And that was a massive step."
(Psychiatrist, chairman of counselling service, Austria)

Specific policies for gender reassignment treatment and the reimbursement of most of its costs to trans persons were reported in some Member States, such as the Netherlands. Promising developments were also reported in France, where an official said that the government was planning to implement the recommendations about trans people from the General Inspectorate for Social Affairs.

The research respondents suggested that central governments showed some active support for trans persons' access to healthcare in Croatia, Denmark, Finland, France, Hungary, Ireland, the Netherlands and the United Kingdom. For example, in Denmark, the Ministry of Justice has established a working group to improve healthcare provision for trans people. In Finland, the Ministry of Social Affairs and Health issued a decree that respondents saw as clarifying the legal situation of trans people.[68] In Ireland, national research commissioned by the government led to the publication of a report on LGBT health and the assessment of trans people's health needs.[69] The Irish government then developed a recognised pathway to trans healthcare together with the NGO Transgender Equality Network Ireland (TENI), and it also conducts research about trans persons' health needs, demonstrating promising practice. Promising practice was reported in Scotland (in the United Kingdom), where NHS Scotland has put together a specific trans policy (reassignment protocol).[70]

Tolerance of trans persons is increasing in EU Member States such as Italy, Poland and the United Kingdom, according to interviewees. In countries such as Slovakia, the situation was seen as much improved:

"[D]uring the communist regime these [trans] issues were completely tabooed while today it is almost a normal subject of conversation. [...] After the revolution the things really got going and, thank God, today there [is a full range of] surgeries these people may demand and we are able to offer."
(Plastic surgeon, Slovakia)

68 Finland, Ministry of Social Affairs and Health (2002).
69 Ireland, HSE National Social Inclusion Governance Group (2009).
70 UK, NHS Scotland (2013).

Specialised services for trans persons

Most health professionals agree that trans persons require access to specialist services. These are reportedly provided in some of the EU Member States, including Austria, Denmark, Finland, the Netherlands, Spain and the United Kingdom. In a few countries, such as Finland, appeals procedures are available for patients if they are not provided with treatment.

Funding for gender reassignment surgery (GRS) through health insurance varies across the EU, according to the interviewees. The officials reported that GRS is unavailable in some Member States, including Croatia, Ireland, Lithuania and Slovakia.

The interviewees indicated that clinical outcomes for GRS are improving overall but that they vary across the different Member States that provide this service. For example, some Austrian professionals reported good GRS outcomes in Austria, but said that surgeons with more specific specialisation in some GRS procedures are available in Germany.

Health protocols

Interviewees said that standard protocols concerning GRS, drawing on the World Professional Association for Transgender Health Standards,[71] have been adopted (or are in the process of being adopted) in many of the EU Member States. These include Austria, Croatia, Denmark, Finland, France, Greece, Hungary, Ireland, Italy, the Netherlands and the United Kingdom. The development of protocols is ongoing and may involve collaboration between different partners.

"Together with other partners we are now drafting directives for the Netherlands. That includes the gender teams, where the VU [University of Amsterdam] and [the University of] Leiden are very active partners."
(Coordinator of trans persons' support and advisory organisation, Netherlands)

Protocols for GRS usually include assessing the reasons for requesting GRS, to ensure that such requests are based on 'genuine' needs, as these decisions are not reversible. For example, in Italy, this is ensured through a number of meetings with the staff of the Healthcare Centre for Social Problems (*Consultorio*), including psychologists. Interviewees in several EU Member States specifically referred to the need for real-life experience, which requires living in the preferred gender role for two years. Collaboration between different professionals was discussed by several interviewees; for example, in Ireland, information is shared between key professionals, including the patient's primary care physician (general practitioner), the clinical or counselling psychologist and the psychiatrist. In some countries, specific clinics adopt additional protocols (for example, the clinic in Amsterdam). Some EU Member States, such as the United Kingdom, have developed more general policies regarding trans healthcare that go beyond GRS. This can be seen as an example of a promising practice.

"It's about access to treatment and referring to trans people using appropriate pronouns and allowing them to have some choice in the facilities that they use, rather than forcing them into some facility that they don't want to use or believe conflicts with their gender identity."
(Consultant psychiatrist, United Kingdom)

Professional bodies and associations

Professional bodies and networks are important in supporting trans healthcare provision in several EU Member States, including Denmark, Italy, the Netherlands, Poland and the United Kingdom.

"We have people who are specialists in this field. We have a network of psychologists, of parents – if they are young – and so on. This already exists, it is not something we have to establish."
(Sexologist, Denmark)

Professional bodies and networks were seen by some interviewees as being particularly important because of the specialist nature of the work. For example, in Italy, the National Observatory on Gender Identity (*Osservatorio Nazionale sull'Identità di Genere*, ONIG) was cited as a positive example of associations networking.

"Inside ONIG there are also users, there are transsexuals, Marcella De Folco was the vice president of ONIG [...] who helped many people and which contributed for her part to educate us all. Because who live this experience on his skin has the ideas even more clear [...] the ONIG, not being made not only of users ... not only of group of doctors, it is a composite organisation."
(Hospital director, Italy)

Frontline practices and awareness

Positive practices that interviewees discussed included healthcare staff improving their knowledge, adhering to protocols, ensuring informed consent for procedures and practising effectively in the specialist area of trans healthcare. An example in Hungary was a private in vitro fertilisation clinic helping a trans couple to have children. Overall, there was evidence that a number of specialists are committed to helping trans people across Europe, and are aware of the issues:

71 World Professional Association for Transgender Health Standards (WPATH) (2011).

"[T]here is a layer in the society of doctors who try to establish possibilities [for trans patients]. I know a gynaecologist with whom I have worked together for a long time and we have discussed this on numerous occasions […] for these patients it is an ordeal to present at a gynaecologist, because they don't consider themselves women."
(Deputy director, psychiatric & psychotherapeutic clinic, Hungary)

Only a minority of the non-specialist professionals were particularly aware of the issues facing trans people. However, there were some indications of positive developments:

"[A]t the first contact with transsexuals they [the medical staff at the hospital] have a few problems when it comes to treating them correctly. But it's my experience there that they all learn it quite quickly; also get along well with the patients."
(Gynaecologist and hospital director, Austria)

The majority of professionals who are specialists in the area of healthcare for trans persons showed high levels of awareness, although some conflicting attitudes were apparent in countries such as Finland and Latvia. For example, a Latvian surgeon was opposed to state support for GRS provision because s/he thought that it was unfair that state resources should be spent on trans healthcare.

Individual specialism and initiative are important in the area of trans healthcare.

"Being familiar with the situation within the health sector in Croatia, it will all come down to individual initiative. Maybe after some synchronising, such individual initiative might become a team initiative."
(Plastic surgeon, Croatia)

Discrimination is very harmful to trans peoples' mental health, in the view of a number of professionals in EU Member States such as Austria, Malta, the Netherlands and Spain. This can include experiences of bullying and hate crime, employment insecurity and relationship breakups after transition. The majority of specialist healthcare professionals said that psychiatric conditions experienced by trans people are due to discrimination, rather than trans identities themselves. They suggested that social changes are required to support trans people's healthcare.

"There must be a fundamental understanding of these persons and respect for them. It concerns a cultural change. A change in mentality that can be difficult […] when you ask what we can do as healthcare professionals, I believe it is our task to address it without making it into a problem."
(Sexologist, Denmark)

Awareness of diversity of trans people

The majority of healthcare professionals appeared to categorise gender and sexuality in a binary system (which assumes that there are only male and female persons and that they are each attracted to the other), but others took more inclusive views:

"[B]y transgender persons I mean all who do not strictly categorise themselves into this strict gender dichotomy, so man, woman, but often identify themselves as being between genders, or trans-identity where the issue really is that someone feels in the wrong biological gender, regarding their body sensation they are in a very big state of suffering. Obviously, the concerns are different, because here they concern acceptance, respect, they concern the fight for equal value."
(Public authority representative, ministerial director, Netherlands)

Promising practices were identified in the interviews in countries such as Finland and the Netherlands, where professionals were aware of the diversity among trans persons, and Austria, where there was a discussion about the need to consider the sexual orientation of trans persons when deciding about the type of surgery they might need. Some healthcare professionals who did not focus their work on trans persons' care were also aware of diversity.

"I'll tell you what I have come across recently […] A man who was born as a woman and has undergone partial gender reassignment procedure, so he still has female reproductive organs."
(Paediatrician, Poland)

The debate about whether transsexuality is a psychiatric pathology or a non-pathological condition that may require physiological intervention was reflected in the findings. Transsexualism is still codified within the International Classification of Diseases (ICD-10[72]). Some health professionals see transsexualism as a psychiatric pathology (this was the general view in countries including France, Hungary, Latvia and Lithuania). There is a realistic fear in countries such as France and Poland that, if transsexuality is removed from diagnostic manuals, then trans people will not be able to access services:

"[M]y biggest fear, perhaps unjustified but this is my understanding of the situation now, is that the disorder will be deleted from the classification. If we stop treating this problem as a disorder but accept it as the so-called norm, I can't see what a doctor can do [to help]."
(Psychiatrist and transgender specialist, Poland)

Some professionals in countries including Austria, Finland and Ireland supported the psychiatric depathologisation of transsexuality. For example, a professional in Austria explained that the psychotherapeutic guidance provided before GRS is not associated with the pathologisation of trans identity, but is necessary because GRS is irreversible. There was consensus among professionals that,

72 World Health Organization (1992).

when GRS is sought, measures have to be taken to make sure that a person seeking GRS is correctly assessed:

"[I]t is definitely clear that the decision taken, and it has to be taken by the respective person [...] it cannot be taken back."
(Psychotherapist, Austria)

"I think there should be very good monitoring for possible contraindications. It's quite common that someone because of temporary psychosis has that feeling of 'this is what must happen'."
(Coordinator of trans persons' support and advisory organisation, Netherlands)

Other debates concern the provision of GRS to persons under the age of 18, regarding which practice varied across EU Member States.

Specialised training

Given that clinical provisions relating to GRS (including surgery, endocrinology, andrology, gynaecology and psychological aspects) are highly specialised, some EU Member States have established specialist training in some areas of trans healthcare – provided, for example, by the Croatian Society for Sex Therapists. In some countries (including Lithuania, Malta, the Netherlands, Poland and the United Kingdom), aspects of trans healthcare are included in some courses. For instance, in Lithuania, issues relating to transsexuality are included in a general course on psychiatry and in postgraduate psychotherapy programmes. Specialists working in the trans field also play a role in increasing awareness in society in some countries. For example, in the Netherlands, both of the interviewees working in gender clinics provided training for other healthcare professionals.

In countries such as Croatia, Spain and France, training on trans issues was seen by professionals as non-existent within the public health system, and some referred to self-training through apprenticeships and engagement in professional networks. Some clinicians do their specialist training by working with existing specialists.

"I had done my psychiatric training almost to consultancy level, and basically it was sitting in. I came along with the clinicians, attended lots of meetings."
(Trans-healthcare nurse, United Kingdom)

A number of practitioners sought information when they began to have trans clients, sometimes using international resources. For example, Slovakian professionals draw on the more extensive information available in the Czech Republic in an accessible language. There is some evidence of training taking place in other healthcare settings. An example of a promising practice was provided by a psychiatrist in Finland, whose mental health and substance abuse unit held a training course about trans issues. The unit is now able to treat trans people requiring their services, whereas before it had to refer them elsewhere.

Several interviewees discussed engaging in specialist networks (national and international) and conferences. There are specialist conferences and congresses held in a number of countries (for instance, in Austria). These were made use of by specialists in a majority of countries. For example, a surgeon in Latvia reported that surgeons have in-house training events and large international conferences on plastic surgery.

Partnerships with trans organisations

The health professionals who were interviewed reported that national governments in a few countries – for example, Ireland and the Netherlands – support trans NGOs so that they can collaborate with policymakers in developing work on trans people's fundamental rights. Trans organisations are involved in the training of medical practitioners in a number of countries, including Austria, Ireland and Italy. Trans organisations are also seen as important in providing support to trans people and practitioners, and in advocating for trans people, in countries such as Austria, Bulgaria, Denmark, Hungary, Ireland, Italy and Romania. In some countries (for example, Denmark), trans people are engaged in collaborative work with policymakers and practitioners. Internet networks supported by NGOs or networks of trans persons are seen as playing a key role in providing information to trans people in countries such as Hungary, Italy and Poland.

"In the virtual world age today, patients no longer see an anonymous doctor; they do research, read [reviews] and want to see a specific person. They say: 'I don't want to see this doctor because' or 'I want to see this doctor because [...]' It is simply a revolution associated with the internet'."
(Psychiatrist and transgender specialist, Poland)

4.2.2. Barriers to work concerning the fundamental rights of trans people within healthcare settings

A range of factors hamper the provision of healthcare to trans people. These include misconceptions and prejudices, issues about a lack of evidence, a lack of national drivers and structures, insufficient provision and related issues with private healthcare, issues with training, poor practices and resource issues.

Legal context for healthcare of trans persons

Health professionals discussed the ways in which the absence of legislation or controversial laws affect the context in which trans persons' health and well-being is addressed or overlooked in a number of EU Member States. For example, in Poland and Lithuania, during the research period, as interviewees pointed out, legislation was not in place to support GRS. Respondents said that

it is therefore not possible for trans people to receive the healthcare they need.

"The law concerning gender reassignment has not been adopted. And these poor people have to [go to] Belarus, Russia and Thailand, pay lots of money and change their sex. As a doctor I am immensely ashamed that this law has been drafted [...] and up until now has not been adopted [...] [G]ender reassignment has even been crossed off of the surgery list."
(Doctor and clinic owner, Lithuania)

Healthcare professionals reported that in some EU Member States, including Slovakia, barriers to same-sex partnership cause difficulties for married trans persons who need to undergo GRS. In a July 2015 judgment – *Oliari and Others v. Italy,* concerning the complaint by three homosexual couples that under Italian legislation they have no possibility of getting married or entering into any other type of civil union – the European Court of Human Rights unanimously held that there was a violation of Article 8 of the ECHR (right to respect for private and family life) and suggested that Italy introduce the possibility of legal recognition for same-sex couples.

In this milestone case, the court found that the legal protection currently available to same-sex couples in Italy not only failed to provide for the core needs relevant to a couple in a stable committed relationship, but was also not sufficiently reliable. According to the court, a civil union or registered partnership would be the most appropriate way for same-sex couples to have their relationship legally recognised. The court pointed out that there was a trend among Council of Europe member states towards legal recognition of same-sex couples – 24 out of the 47 member states having legislated in favour of such recognition – and that the Italian Constitutional Court had repeatedly called for such protection and recognition. Furthermore, the court referred to recent surveys that showed that a majority of the Italian population supported legal recognition of homosexual couples.

In Romania, inconsistencies in case law mean that performing gender reassignment surgery might make surgeons criminally responsible for causing reproductive inability, so most surgeons refuse to perform such surgery. In Hungary, the problems of legal gender recognition of trans persons affect their treatment, leading them to access hormones illegally:

"[F]emale hormones cannot be prescribed to somebody who is still officially a man. This, however, stimulates the black market [in hormone preparations] and this way they go in for unreliable and uncertain treatments that are not monitored by any specialist, which can lead to a lot of medical complications and other problems."
(Deputy director, psychiatric & psychotherapeutic clinic, Hungary)

In some countries, the law requires trans people to undergo full GRS before they can change their sex on official documents. For example, in Croatia, the Ordinance on the Collection of Medical Records of Sex Change (*Pravilnik o načinu prikupljanja medicinske dokumentacije o promjeni spola*) requires genital surgery that removes reproductive capacity before sex can be officially changed in documents, clashing with the patients' right to choose treatment. The requirement for such surgery to gain legal status change was viewed as a problem in a number of ways.

"Not many are these who can afford an operation, financially speaking. [And] some of them just want to change their gender on paper, not physically."
(Surgeon andrologist, Bulgaria)

Legislation requiring trans people to undergo sterilisation before legal recognition is still present in the majority of the EU Member States surveyed, with the exception of Austria, Hungary, the Netherlands, Spain and the United Kingdom.

Professionals reported that the majority of EU Member States covered in the research do not currently have legislation in place to protect trans people from discrimination in the provision of healthcare services. There are also specific legal issues that remain unresolved; for example, in Spain, genital reassignment surgery on minors is illegal and punishable by prison. The public officials reported that no specific public policies for addressing trans people's healthcare are in place in a number of countries, including Bulgaria, Croatia, Denmark, Finland, Greece and Poland.

Misconceptions and prejudices

FRA's EU LGBT survey showed that 17 % of trans persons across the EU felt that their specific needs were being ignored, and that 14 % were forgoing health treatments because of fear of discrimination or intolerance. The qualitative research with public officials showed that negative social attitudes exist towards trans people in all of the EU Member States, including intolerance, fear, denial of the existence of transsexualism and of different gender identities, and a lack of awareness. This was reflected by some health professionals; for example, a Finnish surgeon thought that a minority of aggressive trans patients negatively brands the whole group of trans patients, and can even lead to healthcare professionals being scared of trans patients. This interviewee did not have suggestions or recommendations on how to improve healthcare for trans persons, as she thinks that they are especially well cared for. Such attitudes indicate a lack of awareness and are in direct conflict with the experiences of trans persons.

Religion-related negativity exists in some countries (such as Ireland, Italy and Lithuania), according to interviewees. In Hungary, there is evidence of increasing negativity:

"[T]he stigmatisation against them [trans people], or literally anger, have strengthened in past years and have not subsided [...] that is a political [question] of how society treats minorities."
(Deputy director, psychiatric & psychotherapeutic clinic, Hungary)

Overall, the findings indicate that trans people are more discriminated against than lesbian and gay people in the majority of EU Member States. There is less social awareness of trans identities than of lesbian and gay identities:

"[W]hen it comes to being 'lesbian' or 'gay' the differentiation is a given, everyone knows what they're talking about. But when it comes to 'transgender' I'm not sure that many parts of the population actually know what that term means."
(Public authority representative, general director, Austria)

Within the communities that trans people are part of, attitudes sometimes have a negative impact on the well-being of trans persons, interviewed practitioners indicated. A lack of support from families is a major barrier to seeking healthcare for trans people in a minority of countries, such as Lithuania.

Impact of general public's negative attitudes on healthcare for trans people

The interviews indicated that negative attitudes in wider society may affect healthcare provision to trans people, making professionals less likely to develop healthcare provision for trans persons:

"[R]eluctance on the part of the Irish medical profession to engage [...] Irish psychology, people won't deal with it [trans cases]."
(Doctor and clinical psychiatrist, Ireland)

Professionals in a number of countries – for example, Austria, Bulgaria, Denmark, Hungary, Poland, Romania and Spain – reported that trans people tend to wait longer before consulting a doctor for health issues. In some cases, they avoid healthcare services altogether. The professionals reported that trans persons are worried about issues such as a lack of confidentiality among healthcare professionals and being referred to by the wrong name.

"They don't come with good expectations with regard to health services and I think, on the one hand, they are reluctant, because what they usually know about these services is not necessarily something that facilitates their endeavour [...] in addition, since they already experienced being criticised, marginalised and rejected, they expect the same things with regard to the services."
(Psychiatrist and trans specialist, Romania)

Invisibility and lack of data

The qualitative interviews indicated that the small number of trans persons and the relative invisibility of this population in some national and local contexts may affect the quality of healthcare provision. For example, two public officials in Croatia discussed trans people as being invisible in the national health statistics. A few professionals in countries such as Latvia also discussed the lack of available research on trans people. Several of the professionals in countries such as Finland and Latvia indicated that the small number of trans people forms a barrier to the development of healthcare.

"[T]he number of transgender persons is so small, that there is no need to develop anything special."
(Head of mental healthcare clinic, Latvia)

"There are not many [transgender] people in Bulgaria, this problem is not very popular and few specialists work on it."
(Surgeon andrologist, Bulgaria)

Low priority in national policies and planning

Interviewees in some EU Member States, such as Croatia, Finland, Hungary, Latvia, Malta, Poland, Slovakia and Spain, argued that the government does not see trans care as a priority. There is evidence that public officials designing equality policies at central level lack awareness of trans health issues. For instance, in Malta, a public official reported that the lack of expertise in and knowledge about trans health was a major barrier to developing state services to facilitate gender reassignment. Politically motivated changes in the healthcare system have caused a major problem for trans people in Poland, where a health professional reported that since 1999 the need for GRS has been denied and that all the costs of care now have to be met by the patient.

Insufficient provision and coordination

The qualitative interviews revealed a number of poor practices concerning trans healthcare, mostly relating to the absence, or insufficient provision, of such care. Officials reported that full GRS is unavailable in some EU Member States, including Croatia, Greece, Ireland, Malta, Slovakia and Lithuania. In some countries, such as Finland and Italy, there are regional variations, and parts of the country have no healthcare provisions addressing trans persons' health needs. In countries such as Ireland and Malta, trans people were seen as the LGBT population group that had their needs met least.

There are specific difficulties with access to healthcare for trans persons. Some interviewees mentioned very long waiting lists for treatment or overstretched services (for example, in Austria, Italy, the Netherlands and Spain).

"The basic infrastructure is there [...] but we are not sufficient. We cannot deal with the demand. So the form of it is fine, the structure that's been set up, and the task division [...] but there are far more people who need this kind of care than there are people who can provide this kind of care."
(Psychologist, Netherlands)

A few interviewees reported a national shortage of particular specialists – for example, a lack of psychiatrists and psychologists in Lithuania, a lack of surgeons in Austria and Ireland, and a lack of both endocrinologists and surgeons in Slovakia.

The lack of systematic coordination of trans healthcare in countries such as Ireland and Slovakia means that trans healthcare needs are not met. For example, three Irish interviewees reported that there are no gender specialists in Ireland to coordinate health services for trans persons. They said that it was very difficult to get referrals to medical specialists in other countries.

Private healthcare

Health professionals reported that, in several countries – for example, Malta – services for trans people are available only from private healthcare providers. In others, such as Poland, GRS is available only privately. There was evidence from a range of EU Member States that trans people have surgery privately in non-EU countries and/or use hormones purchased from the internet. A number of professionals in countries such as France, Ireland, Italy and Malta described these practices as problems. Trans persons receive no follow-up support and in some cases medical problems can result from operations carried out elsewhere. One specialist in Ireland was particularly aware that trans persons who have sought surgery may later wish that it had not taken place. He emphasised that gender reassignment is irreversible and referred to three cases where trans persons underwent reassignment surgery abroad without referral and support from any Irish medical specialist and then suffered negative consequences (one suicide and two referrals for psychiatric care).

No formal health protocols or uneven application of existing protocols

In a number of EU Member States, including Croatia, Hungary, Lithuania and Romania, interviewees said that there are no formal protocols in place regarding GRS or other aspects of trans healthcare, apart from general ones such as confidentiality requirements and the ICD:

"[W]e are lacking some standards, standard procedures. Currently, it is all up to individual doctors-sexologists who lead the team, which includes a gynaecologist, a urologist, a geneticist, an endocrinologist [...] Here, too much is left to the doctor's discretion, but also fear of making a wrong or premature move; also, the team [of specialists] is rather isolated. It is up to the sexologist to manage the entire process." (Psychiatrist and sexologist, Slovakia)

Even where some protocols are in place, they may not be applied to everyone. For example, in Poland, an interviewee reported that the diagnostic standards are not binding for practitioners who are not members of the Polish Society for Sexual Medicine and that some private practitioners skip significant parts of the diagnostic process.

Lack of training and self-training efforts

A number of interviewees in countries such as Bulgaria, Croatia, Hungary, Ireland, Lithuania, Latvia, the Netherlands and Romania noted a lack of formal training on trans issues for generic healthcare professionals:

"[T]here is no specific education in taking care of people in special ways and in what their additional health needs might be. It comes as a surprise to everyone that I teach about the subject, when I tell them that there can be these special rates of illness, death, suicide and abuse. None of them have received education in this before."
(Psychologist, Denmark)

Where some training is available, professionals described it as usually voluntary and rare. Overall, training appears insufficient even in countries where some is available, including Denmark, Finland, Malta, Poland, Spain and the United Kingdom. There is a lack of training at the level of general practice in countries such as Austria and the United Kingdom. In some countries, including Slovakia, there is also evidence of a lack of platforms for information exchanges between professionals, which could help professionals to self-train.

Cooperation problems with trans NGOs

In some countries (for example, Lithuania and Malta), NGOs for trans people were seen by some professionals as difficult, making it hard for professionals who wish to work with these organisations. There is also some limited evidence of tensions between healthcare professionals and trans NGOs. In one particular case in France, one professional reported that LGBT NGOs oppose the psychiatric model of trans, whereas professionals tend to support it, making it difficult for NGOs to work with professionals. In Poland, a professional did not think that trans NGOs had a role in healthcare training for trans people – an example of poor practice.

"It's rather we who should train them [laughter]."
(Transgender specialist, Poland)

GRS and related poor practice by general medical practitioners

Practitioners reported problems for trans people in Poland, where they are unable to access healthcare funds if they have not undergone full genital reassignment surgery, because health insurance is provided

on the basis of the assigned gender of the individual. Another problem was reported in Italy and Slovakia, where there have been cases of surgeons refusing to carry out GRS.

"One transgender woman who wanted to have her testicles removed was rejected in all Bratislava hospitals. In Nitra they first admitted her and later discharged her on the grounds of the following argument: 'We shall not support paedophiles'."
(Endocrinologist, Slovakia)

As this quote demonstrates, there are some serious misconceptions among a few individual professionals working in the trans health field. These manifest in negative attitudes towards pride events (such as the view that trans people should not take part in such events because they are mentally ill) in countries including Lithuania and Latvia. There interviews revealed other examples of transphobic beliefs, such as associating trans people with STDs and the view that trans persons are violent.

"[T]hese persons unfortunately may be dangerous for the society, and we need to defend not these persons, but other persons from them. Men willing to become women are less dangerous for the society, but women willing to become men try to prove it and quite often to prove it physically that they have priority over other members of the society, these persons quite often may become serial killers."
(Plastic surgeon, head of clinic, Latvia)

The evidence also indicates a lack of awareness about trans issues at the level of general healthcare practice and general practitioners in several countries, including Bulgaria, Croatia, Finland, Hungary, Romania, Slovakia, Spain and the United Kingdom. In some EU Member States, such as Slovakia, healthcare specialists working with trans people reported that their patients often encounter unfavourable reactions from doctors. The findings also indicated problems with trans people being referred to specialist trans services when their medical problem is unrelated to their gender identity; labelled as mentally ill; refused care; called by the wrong name; or simply misunderstood. In some cases, it was reported that doctors refused to treat trans persons.

"The most common one is when the local GP [general practitioner] has refused to prescribe. That is common. When someone has come as far as the Gender Clinic, has seen us and we have said this is fine, transition is going well, they are stable. Let's get them onto some oestrogen and anti-androgen and the GP writes back saying they won't do it."
(Trans-healthcare nurse, United Kingdom)

There is also some evidence of very poor practices at the levels of secondary and tertiary care in countries such as Bulgaria, Finland, Latvia and Slovakia. For example, in Finland, a professional reported doctors refusing to provide somatic care for trans patients. A few interviewees also mentioned poor practices such as placing trans patients in single-sex hospital wards according to their legal sex (for example, in Poland), which can cause them a lot of discomfort.

Resource-constrained healthcare for trans persons

Resourcing of trans healthcare services is a challenge, particularly in countries where the healthcare systems have been very badly affected by the economic crisis or were already very overstretched, such as Italy and Spain. For example, an Italian professional reported that many hospitals are unwilling to provide services to trans persons because of the cost. There is a problem with competing demands on public health services and budget cuts in EU Member States, including Austria, Finland, Malta, the Netherlands and the United Kingdom.

What level of health provision should be made available to trans people given other demands on public funds is a subject of ongoing debate. For example, in the Netherlands, funding was not provided for breast implants for trans women. The lack of full funding was seen as a problem by some professionals, because trans people need to look like people born in their identified gender and they need to feel comfortable. At the same time, others raised questions about the extent to which the public should fund operations.

"It is actually quite typical to have a transgender person to ask for facial plastic surgery. And facial plastic surgery is not the same thing as feminisation or masculinisation. So lamentable is the fact that even if a person is transgender, it is not the society's responsibility to make them beautiful or handsome."
(Surgeon, Finland)

Where healthcare and education systems are very overstretched or functioning poorly, the provision of high-quality healthcare and medical education is a general problem. Interviewees reported that in countries including Bulgaria, Greece, Hungary, Poland and Romania, the healthcare services needed by some trans persons are not covered by public health funding. This can lead to trans people making potentially troublesome life choices, including sex work. It can also prevent trans persons from getting GRS when they need it.

"Any surgery entails a cost of several thousand Polish zloty, which, to be honest, not every patient can afford. The treatment process is extended over time, which is not good for them because it's not comfortable. Many patients do not complete the full surgical process mainly due to financial reasons."
(Transgender specialist, Poland)

The limitations on health insurance for trans persons seeking treatment in countries such as Austria and Hungary are a fundamental barrier to trans persons accessing healthcare. A professional in Hungary

reported that a lack of public health insurance for GRS means that surgeons have to find other ways to finance surgery, including using invented grounds for surgery. In Austria, health insurance policies do not reimburse treatment such as breast construction, speech therapy and epilation. The lack of funding for surgery can affect trans persons' mental health adversely. The results of the research indicated that economic and social marginalisation place trans persons in positions of vulnerability, affecting their health.

4.2.3. Cross-cutting themes regarding healthcare and trans persons

Acknowledging diversity in the trans population

Most interviewed healthcare professionals usually assume that 'transgender' means 'transsexual'. Professionals in a few countries, including Finland, noted the absence of protocols for gender-queer persons (persons who experience themselves as both male and female; as moving between gender identities; as androgynous; or as having multiple gender identities). There were some indications that awareness of gender diversity is improving in countries such as Austria, Finland and the Netherlands. However, it appears that across the EU Member States the majority of professionals do not take into account the ways that some trans people identify as other than male or female. Other well-known forms of gender variance, including cross-dressing, were not touched upon by interviewed practitioners. Many gender-diverse people are unlikely to require or ask for surgeries or hormone treatment, but they may still have specific healthcare needs – such as the need to be treated respectfully by frontline service providers – that may be overlooked. Similarly, a substantial number of trans persons are also LGB and experience issues similar to the rest of the LGB population in addition to those relating to their gender identity. These include issues about partnership rights and being open about their sexual orientation. Practice sometimes varied between public and private health provision. For example, a Hungarian plastic surgeon described a promising practice in his private clinic, where staff use gender-neutral greetings and appropriate use of first names, but thought this would not happen in public healthcare settings.

Other factors explaining differences in the quality of healthcare provision

The interviews show that access to specialist trans healthcare facilities is uneven in countries in which it is available. Given the specialised nature of the interventions requested, these are often provided in specialist clinics spread across different regions; consequently, some regions may be overlooked. For example, in Italy, respondents stressed that there is a lack of service provision in the south of the country and on the islands. Interviewees reported that trans people who live far away from specialist services have to manage their travel to these services and that some trans people's needs are ignored, especially those of young trans people. Healthcare professionals in rural areas and small towns across the EU Member States also tended to be less aware of trans healthcare issues than those in large cities.

Some practitioners noted variations in medical outcomes. Specifically, male to female GRS is easier to carry out than female to male GRS. Professionals in countries such as Malta emphasised that trans men and trans women have different needs regarding medical care. Also, practitioners in some EU Member States, including Hungary and Poland, reported that older age is a barrier to GRS, owing to physical risks associated with surgery and psychological difficulties with transitioning.

There was little evidence about other variations – for example, regarding ethnicity. However, the interviews clearly indicated that trans people who have financial resources are more able to access private healthcare than those who are poor. Private healthcare is very important for some trans persons because state provision is difficult and in some cases impossible to access. This means that there are particular inequalities in access to healthcare for trans people.

Conclusions

This research shows that much needs to be done to achieve the equal treatment of LGBT people and ensure that public authorities fulfil their fundamental rights. The interviews reveal details about a variety of significant barriers –including a lack of or limited awareness, a lack of competence and capacity to combat prejudice, as well as poor practices and an adverse socio-political climate. They also highlight select promising practices that can act as drivers of change.

The current research confirms that LGBT persons do not enjoy the same rights as others and, in some cases, they are perceived as lesser citizens – as seen in FRA's EU LGBT survey results published in 2013. Over 1,000 public officials and professionals working in different areas of public service in 19 EU Member States insightfully flagged obstacles to equality policies and their day-to-day work, as well as what actually works and brings significant change and results. Their views, ideas and suggestions offer a unique and privileged bird's-eye view and at the same time a zoomed-in perspective, which may help policymakers acknowledge the need for policy intervention and improve the capacity and quality of service and accountability.

Challenges to the effective implementation of LGBT equality policies

The barriers to fulfilling the fundamental rights of LGBT persons are similar across both the different EU Member States and different professional sectors and policy areas studied. Some are caused by shortcomings in administrative capacity and coordination – often linked or attributed to resource constraints and the public finance crisis, to a lack of awareness and professional competence, or the great need for training that is not always in place, although practitioners want it.

Other obstacles to implementing policies that promote the equality of LGBT persons link to or stem from prejudice, negative attitudes, misconceptions and misunderstandings, including homophobia, biphobia and transphobia. The respondents indicated that duty bearers are often called on to protect and promote the rights of LGBT persons in intolerant or hostile social and political contexts; in some cases, a few public officials and servants themselves expressed intolerant views.

LGBT populations are frequently invisible, due to fear and self-defence or as a result of ignoring and underestimating the problem, which is not recognised, measured and assessed. This leads to people giving low priority to, or being indifferent towards, the protection and enjoyment of LGBT persons' fundamental rights. In Member States that are former Soviet republics, many respondents maintained that an ingrained culture of silence is making it particularly difficult to address matters of sexual orientation and gender diversity.

LGBT persons as lesser citizens?

The idea that LGBT persons are not part of the national community or that homosexuality and trans identity are not compatible with the national identity is common in a number of Member States, according to public officials and professionals. Some respondents noted that these are the views of the society they live and work in, while others were expressing their own views. As a result, LGBT persons either are not seen as having rights or are viewed – and, inevitably, treated – as lesser citizens by the general public and duty bearers. The invisibility of LGBT persons and the view that they do not belong to the citizenry like everyone else reinforce each other in the public space and in the provision of public service and accountability. Some professionals linked homophobia, transphobia and related hate crime and harassment against LGBT persons to the rise of xenophobia and extremism; they explained that violent groups target both non-EU and LGBT citizens as not being part of the national community, which does not want them and excludes them.

A vicious circle of lack of awareness, prejudice and invisibility

Awareness of the fundamental rights of LGBT persons and of the discrimination they face is crucial to work in this area. Awareness and knowledge are especially important because LGBT persons are often invisible. Many public officials and professionals both at senior levels and on the front line are unaware that fundamental rights of LGBT persons are breached in their countries. The respondents indicated that there is a lack of research about LGBT persons and a lack of evidence to prove that policies to support their fundamental rights are needed. In societies that keep LGBT persons invisible, the duties of public officers towards LGBT citizens risk being overlooked or not being put into practice. Lack of awareness can also lead to deeply rooted prejudice and to duty bearers simply being unequipped to perform their roles. The invisibility of LGBT populations means that policymakers and professionals may fail to take responsibility for addressing problems and violations of their fundamental rights or for ensuring that these rights are exercised and realised.

Capacity, competence and accountability

In this landscape, the lack of awareness means that duty bearers have limited capacity and lack competence in performing their duties and providing public services. When the problems and needs of rights-holders are not acknowledged and addressed, in social contexts that do not support the rights of LGBT persons, public services suffer from reduced accountability and from inaction by omission or by direct and indirect discrimination. Many respondents emphasised the need to obtain training and information to help them improve their skills and make it possible for them to address the real problems and needs of LGBT persons – heightening the level of accountability and thus of the quality of public service. Lack of professional and institutional capacity among public officials and duty bearers is usually accompanied by a lack of mechanisms, structures and coordination at institutional level.

Drivers for the effective implementation of LGBT equality policies

EU law and policy as drivers for implementation at national level

Public officials maintain that, among multiple drivers of policies in support of the fundamental rights of LGBT persons, the most crucial is the commitment to EU policies and to the process of adopting EU law. Being part of the Union and sharing positive developments and successful policies between EU Member States is considered to be a major tool for improvement through either inspiration or pressure to reach higher standards in the EU.

However, several interviewees expressed concerns that the EU legal and policy standards regarding the fundamental rights of LGBT persons in education, hate crime protection, access to justice and access to healthcare are very far from being effectively implemented on the ground in some EU Member States.

Leadership and progressive change of social attitudes and norms

Public officials and practitioners in all areas indicated that social attitudes change and may become more tolerant of the rights of LGBT persons. This may provide a stronger basis for equality policies and their better and more successful implementation. However, attitudes vary among and within countries and their different urban and rural regions. Consequently, the context in which duty bearers work may affect the way they deal with the fundamental rights of LGBT persons. In this sense, interviewees stressed that leadership supporting the rights of LGBT persons can both encourage more tolerance and help them perform their duties. Several respondents argued that the lack of political leadership in supporting the equality of LGBT persons is a negative factor in implementing equality policies in several EU Member States. Open political hostility towards the fundamental rights of LGBT persons was also flagged as an issue in many Member States, creating obstacles to performing public services concerning the fundamental rights of LGBT persons. Public officials and duty bearers may be afraid of unfavourable personal or institutional consequences if they actively support interventions, and they may be under pressure from stakeholders who have strong prejudices against LGBT persons.

Positive developments and promising practices

The review of the practices of public officials and professionals across the sectors of education, law enforcement, LGB healthcare and trans healthcare has helped to identify some promising developments regarding the fundamental rights of LGBT persons and related work across the EU Member States studied. However, these are mostly not systematic and not embedded across all of these Member States or within them. There are considerable examples of poor practice, as well. Some interviewees expressed concerns that EU legal and policy standards are not being met in a satisfactory way. The promising developments that currently exist provide an opportunity for change, as they can potentially be spread across the EU.

There was also evidence of a wide range of interesting and promising practices among frontline professionals and others dealing directly with LGBT persons. These practices are often piecemeal and are not always communicated within or across different EU Member States. Better communication and sharing of promising practices would help support the fundamental rights of LGBT persons.

Training for raising awareness, capacity and accountability

Training and awareness raising of public officials and duty bearers are extremely important for the successful implementation of policies to support the fundamental rights of LGBT persons. The research findings indicate that, in a few EU Member States, awareness of LGBT issues and related policies and practices is particularly developed in some areas of public service, but not in others. In many cases, professionals – such as teachers, medical staff and law enforcement officers – seek out self-training and information to help them recognise the needs of LGBT persons and perform their tasks in

ways that promote the equal enjoyment of fundamental rights by all.

Partnership and cooperation with LGBT communities

Involving civil society organisations that support LGBT persons and their rights in policy-making and practice – which is done in a range of Member States – may facilitate the work of public authorities by improving capacity and understanding, as well as quality of service and accountability. It allows public officials and professionals to gain awareness of the issues facing LGBT persons. In some cases, LGBT NGOs are actively involved in delivering services.

Generic versus specific LGBT equality policies and interventions

One of the key challenges for LGBT persons' fundamental rights work is to balance policies aimed particularly at ensuring that LGBT persons can enjoy fundamental rights ('targeted interventions') with general measures to support human rights or service provision without any discrimination on any grounds ('generic interventions'). Public officials and professionals in many EU Member States do not generally favour policies that specifically address LGBT persons' fundamental rights issues across the areas of education, hate crime and healthcare provision. This resistance is found at the national level among policymakers in many Member States. The only exception is trans healthcare, because many health professionals recognise that trans persons face specific health issues. It is important to point out that a substantial proportion of public officials supported measures to tackle discrimination against LGBT persons, but they thought this could be done through generic plans, including sectoral ones such as anti-bullying policies. This support for generic measures was also present among some professionals – for example, law enforcement officers. The latter used generic hate crime recording methods in their work, including homophobic motives among others, because a single mechanism is required at the point of contact with the victim. On the other hand, in some cases, the argument that targeted interventions are unnecessary may be used to justify not acting on an occasion that requires specific measures to ensure the same outcome with regard to fundamental rights. However, policy officials in these countries are worried, with reason, about provoking homophobic backlashes in the socio-political contexts they work in if they are too ambitious in openly addressing LGBT human rights issues. These EU Member States are usually also dealing with severe economic problems that affect general service provision, making it particularly hard to justify any targeted provision.

On the other hand, public officials specialising in areas such as equality and fundamental rights voiced considerable support for targeted interventions. Some professionals across all policy areas and in all EU Member States covered in the research also called for more targeted interventions. The policymakers and practitioners who had considerable experience with LGBT issues noted a need for different types of approaches, depending on the situation. Sector-specific action plans in particular areas (such as healthcare and secondary education) can include the fundamental rights of LGBT persons specifically, alongside other areas of fundamental rights, such as those relating to ethnicity. National LGBT action plans are seen as positive by some officials, but these need to be commensurate with action plans relating to other groups who are not able to enjoy fundamental rights.

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Annex 1: Promising practices

The promising practices highlight examples of innovative, progressive or interesting practices in the different EU Member States, across the different sectors. The selection drew on the views of the interviewees. It is acknowledged that practices that are innovative in one country might be long-established in another, but this section includes a range of practices across all countries surveyed to demonstrate that promising practice is possible in all EU Member States. Because the qualitative research focused on thematic analysis rather than evaluation, these practices were selected to be illustrative – rather than 'best-case' – examples.

1. LGBT NGO engagement, participation and resource provision in Ireland

Irish officials discussed the importance of organisations such as GLEN, BeLonGTo, LINC (Lesbians in Cork), Gay Doctors (GDI), Transgender Equality Network Ireland (TENI) and Dundalk Outcomers. One official described how GLEN provided briefings for parliamentary committees, helping to ensure that the Civil Partnership Act was passed and also fostering a ministerial response that led to the launch of the poster campaign 'he is gay or she is gay and we are cool with that'. GLEN has also been influential in working with the Department of Education in LGBT-policy formulation. This has led to funding for projects to address homophobic bullying. In addition, the trans organisation TENI delivered trans awareness training to 1,645 people in 2012,[73] demonstrating promising practice in raising awareness more broadly.

Promising practice concerning the engagement of LGBT organisations in policymaking and implementation was evident, for example, in the health sector. GLEN worked with the Department of Health in policy formulation. TENI, Gay Doctors Ireland, and Gay Men's Health Clinic are other examples of LGBT organisations that have engaged with the HSE and received funding to set up clinics and initiatives. One nurse interviewee highlighted the important role of GLEN in producing information guides. In association with the Irish College of General Practitioners (2008), GLEN published a quick reference (two-page) Guide for Primary Care Staff working with lesbian, gay and bisexual patients in general practice. A similar guide was produced by the Irish Institute of Mental Health Nursing, in collaboration with GLEN and the HSE National Office for Suicide Prevention. A bereavement leaflet was also produced by GLEN with the Irish Hospice Foundation to address "Coping with the Death of your Same-Sex Partner.[74]

On 26 June 2013, GLEN launched a new guide for mental health services in consultation with the Mental Health Commission, to provide staff working in mental health services with information to assist them in their day-to-day interactions with LGBT people availing of services. The need for this guidance arose from Irish research that identified the increased mental health risk among LGBT people and younger people in particular, as well as the need to increase awareness among health professionals of LGBT people's mental health needs.

2. NGO engagement, participation and resource provision in the UK

There is a strong LGBT NGO sector in the UK, with[75] active organisations, including trans organisations such as Press for Change, FTM London, Mermaids and Trans Media Watch. Bi.Uk and the Bi.org network support the BiCon bisexual conference and BiFEsts exists for bisexual people and their allies. Bi.Uk is engaged with national and regional policy networks and provides ad hoc training for central government departments and statutory sector organisations. A large number of LGBT NGOs are specific to particular groups of LGBT people, such as Imaan, which supports Muslim LGBTQI persons, and local support groups and social groups. There are national LGBT umbrella organisations, including the LGBT Consortium. The LGB NGO Stonewall is now 25 years old and is influential in raising the profile of fundamental rights for LGB persons. It provides a substantial range of resources – including research, policy documents, awareness-raising materials and guidelines. Stonewall works closely with business, policy actors – including central government departments – and other NGOs to ensure that LGB people can contribute fully to UK economy and society. Stonewall runs a large number of trainings and conferences, including work in the fields of education and hate crime. Its 'Diversity Champions' scheme provides a performance improvement and management mechanism, which UK organisations – including public organisations – use to improve their services for LGB persons and their support for LGB

73 Ireland, TENI Annual Report (2012).

74 GLEN and the Irish Hospice Foundation (2009), Coping with the Death of your Same-Sex Partner, GLEN and Irish Hospice Foundation, Dublin.

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employees. It also has a School Champion scheme,[76] which has been taken up by some schools.

3. Education and awareness-raising in France

A public official reported that Public Defender of Rights (DDD) began its activities in 2011. It grouped together several former institutions: the HALDE (High Authority fighting against discrimination), the Defender of children's rights, the Public Mediator and the National Commission dealing with security and ethics. This enabled agreements between these former institutions, which in the past sometimes took opposing stances on some subjects relating to same sex couples. In addition, there is an LGBT committee (*Comité LGBT*) within the DDD, which brings together LGBT associations and members of the DDD who work on LGBT issues, as well as others with a wider scope of activity, to address discrimination towards LGBT people. Two years ago, the Education Minister, Xavier Darcos, put in place a national conference about harassment and bullying in schools. This was accompanied by a national information campaign, with videos broadcast on public channels for three months. Another campaign on public channels was planned about the same topic – with the same videos, plus one that precisely addresses a case of homophobic bullying. In addition, videos will be put on Facebook.

The promising policies are being implemented in schools in different ways. Bullying is now included in the categories of violent acts that schools have to register, and an interviewee indicated that homophobic causes of bullying shall soon be specified. The sexual health department in the INPES (National Institute for Health Prevention and Education) provides pedagogical tools for schools. They provide educational activities that allow school staff to tackle homophobic insults; the exercise involved is called the "wall of insults": first, pupils have to express all the homophobic insults they know, and then a reflection about these words is conducted by the teacher/presenter. They also produced a brochure to help health educators and educators in general to deal with discrimination. It covers sexuality and the fight against discrimination. They also organised a contest of scenarios for pupils on the theme of 'homosexuality, homophobia, discrimination and suicides': five scenarios were finally chosen and the films were broadcast on TV (Canal+ channel). INPES has a partnership with the association 'Contact', which helps parents of young people and visits schools.

Training initiatives to support the fundamental rights of LGBT persons in education in Croatia and Denmark

A Croatian psychologist reported that she and her colleague (a school pedagogue) are going to be included in a training programme organised by the LGBT rights NGO 'Lori' in the coming months. This illustrates promising practice by individual professionals. The training programme is part of a project entitled "Reduction of homo/bi/transphobia in high schools and the establishment of adequate support for the LGBT population in high schools" (*Smanjenje homo/bi/transfobije u srednjim školama i osiguranje adekvatne podrške za LGBT srednjoškolsku populaciju).*[77]

There are a few promising developments concerning training and education in Denmark, including:

- Training organised by Lambda (a local LGBT association for Funen);
- A relatively intensive training took place in Holstebro Municipality. The training was part of a project funded by The Danish Health and Medicines Authority and consisted of 14 courses over two years. Forty teachers and eight health visitors in the schools participated. The main aim of the courses was to improve the capacity of teachers to carry out sex education in schools.
- A compulsory curriculum for sex education in Holstebro Municipality was developed.

Promising frontline practices among educators in Bulgaria, Slovakia, the Netherlands and Denmark

The following quotes provide examples of promising practices among individual teachers in supporting the fundamental rights of LGBT students.

"[W]e are always trying when there is a text about falling in love and so on, or when families are mentioned or who likes whom, we always try to use this language boy or girl, boy or girl, boy or girl, that is, to make it clear that both one and the other are possible and that this is OK. For example, in the English classes my students are totally used to this."
(Teacher, Bulgaria)

"The relation to the students means a lot. It is a very big part of the way we work with the students. It is something you must have. People are very different, and you have to figure out a relationship, and that's what we are working on all the time. I don't really have any examples, but we would talk about it [...]."
(Teacher, Denmark)

76 [UK] Stonewall (2013), The Stonewall School Champion Programme.

77 Information available via Lori's website.

"We began to tackle it [harassment of a gay student] immediately. The boy actually came to me crying that he could not take it anymore, that [the girls] bothered him and were getting on his nerves and so on. We began to tackle it with the class teacher. We sought out the group of girls on Facebook. [The girls] deleted it right after the classes but [our school administration] was smart enough to copy it right away, so we had a proof. As soon as we clamped down on them, the kids began to realise that they had gone overboard a bit. Their parents were invited for a talk and the girls expressed their regrets; most of them got reprimanded and their conduct got marked down on their report cards."
(School counsellor and psychologist, Slovakia)

"Just having the conversation, and asking [the bully] whether he or she can imagine what hurt their remarks causes, 'can you imagine how the other person feels about that?' Hold up a mirror [...]. Maybe together with serious consequences [sanctions or punishment]."
(Teacher counsellor, Netherlands)

4. Planning and implementation mechanisms concerning law enforcement in Hungary

The Hungarian Office of the Parliamentary Commissioner for Fundamental Rights (*Alapvető Jogok Biztosának Hivatala, AJBH*) conducted a Pride March monitoring project, which apparently helped improve the quality of police protection afforded to march participants. The commissioner started this project in 2007, following several reports of mismanagement of freedom of assembly events by the police. The commissioner organised a series of academic events, and set up a monitoring team that conducted participant observation at various events, including Pride Marches.

5. A coordinated service that works with LGBT NGOs and other associations in Catalonia

Law enforcement professionals reported that the Catalan police has proactively supported the fundamental rights of LGBT persons. There is a department called "Office for Community Relations" in all police stations, which supports work with local associations to support good community relations and spreads knowledge about reporting procedures for hate crimes. Mechanisms are in place to intervene in case of hate crimes or hate speech as follows: there is a specific protocol with the Special Prosecution Office aimed at guaranteeing very quick communication so that victims can lodge appeals, and there is a protocol for operational instructions as to how these complaints must be collected and which actions must be implemented. The Catalan police records hate crimes against LGBT persons. The police also work with representative NGOs, permitting offenses to be reported to these supportive NGOs rather than directly to the police.

Within the police force itself, there are groups of units that deal with vulnerable groups of victims, including LGBT persons. This is partly due to resource issues and partly because all law enforcement professionals need to know how to deal with offences against LGBT persons. However, there are usually 2-3 police officers who are known to be particularly sensitive to LGBT issues and who help crime victims. These professionals achieved such specialisation through their knowledge of the LGBT population, either because they belong to it or because they have special contact and relationship with it. They also pursued further training to better process such complaints and to apply the maximum penal rigour. These officers know the LGBT subculture, which encourages complainants to rely on them and to explain to them what happened in a relaxed manner.

6. Examples of professional networks and associations that support LGB fundamental rights concerning health and hate crime in Hungary and Ireland

An LGBTQ working group (*LMBTQ szekció*) has been set up within the Hungarian Psychological Association (*Magyar Pszihológiai Társaság*, HPA). The working group was set up following publication of the Hungarian translation of a book on reparative therapy by Joseph Nicolosi and a related conference organised by the Hungarian Association of Integrative Psychotherapy (*Integratív Psziochoterápiás Egyesület*). As the coordinator of the working group noted, this growing prominence of reparative therapy and a pathologising view of homosexuality among Hungarian professionals prompted other psychologists to better organise, and, with support from the president of the Hungarian Psychological Association, they managed to officially establish a working group at the May 2012 conference of HPA.[78]

In Ireland, G-Force – a network made up of LGB officers and police civilian personnel whose main aim is to provide a support structure to assist LGB police – ran the European Gay Police Conference in June 2012 in

78 Information received from Andrea Ritter, president of the HPA LGBTQ working group, on 30 August 2013.

Ireland. This helped raise the confidence of members of *Garda Síochána* who are gay or lesbian. The event – held in Dublin Castle – was highly publicised, and was supported by the President of Ireland and the Minister for Justice and Equality, as well as by members of *An Garda Síochána*, attracting over 400 delegates from three continents.

7. Elder LGBT persons' healthcare in the Netherlands

The Ministry of Health supported a consortium of civil society organisations to develop a tool to measure and certify the LGBT-friendliness of elderly care institutions, the so-called Pink Key (*Roze Loper*). A professional working at one of these institutions reported that:

"[W]e say in the leaflets that we are a gay friendly home, so it's known to all the residents and all the staff. And because we also want to practice that we use training and symbols. The rainbow flag is attached to the outside door, and we also have the sign on the home, and we have the Pink Carpet, that trademark [...]. As home we participate in Gay Pride and we organise many activities. And our umbrella organisation has added sexual diversity to their policy. They say they want to be there for everyone. But some people still experience an obstacle, so we pay extra attention to them. Because if we want to be there for everyone we must make sure that also people who find it difficult also feel at home here....We try to convince homes that are not yet 'homo friendly' that if they organise an event they shouldn't stick to 'a Brabantse afternoon' or Easter, but also do something around Gay Pride, because that's a big party. Or around Valentine's Day: don't only focus on love between a man and a woman, but also try to do something with two men or two women [...]. Also on our website we have things about homosexuality. And every three months we publish the Oud Roze Newsletter, a magazine in which we list all the activities for homosexual elderly'."
(Nurse, Netherlands)

8. Promising clinical practice concerning transgender in Italy

A clinician demonstrated leadership in building a multi-disciplinary team. This individual has supported training within their faculty, so that all graduates in medicine are aware of trans issues. They also support research about trans healthcare and seminars. This interviewee described the care provided for trans persons:

"Here, there are signs written everywhere, without marginalisation; for example, there is a sign for the surgery, how to find it [...]. Here we have Arcigay association that works very well, which helped me to talk to my medical director in order to have more surgery sessions and also the Region...finances for several years psychologists (who refer all 'Arcigay')to provide Personal Service, to help patients who come from other regions. Some of them come with dad, mom, maybe they did not need anything, but other people who cannot come here with their psychological reference are alone [...] so they have done something that I found very useful for them for a few years [...] for example we operate on a person next week and Monday, when she will arrive, these guys will receive her in a different way from the bureaucratic one, by a doctor, surgeon or anesthesiologist. We're all professionals related to the intervention, but there is also a human aspect [...] There's my call and I remind them to bring judgment, blood tests, HIV, these things. There's another call, from a psychologist's staff member who suggests... where relatives can stay, near the hospital, away from the hospital, to remind you to bring a mirror to be able to look at, the dressings, the pillow so that you are better after surgery. We are trying to improve, everything is not perfect, but we are improving [...] we inform about the possibility to store sperm [...]."
(Hospital director, Italy)

Annex 2: Research in a nutshell

In 2013, FRA conducted qualitative research based on interviews with public officials and professionals who have a duty to respect, protect and promote international, European (EU and Council of Europe) and national fundamental rights norms. The research scrutinised their views and perceptions of policies and policy actions linked to lesbian, gay, bisexual and trans (LGBT) persons' fundamental rights issues.

FRA interviewed four groups of professionals and practitioners with hands-on experience of the implementation of existing legislation and/or awareness of the effects of the lack of such policies, to meet this objective. The four groups were:

- public officials at national and regional/local level, with decision-making, coordinating and implementing functions;
- school heads and teachers in upper secondary education;
- police chiefs and police staff (frontline officers);
- healthcare providers (doctors, nurses and administrative staff, including a targeted sample of trans persons healthcare providers).

These individuals are key actors in implementing policies and measures to effectively combat discrimination on grounds of sexual orientation and/or gender identity.

The research entailed 1,039 semi-structured, face-to-face interviews focusing on issues specific to the target group in question in the following 19 EU Member States: Austria, Bulgaria, Croatia, Denmark, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Poland, Romania, Slovakia, Spain and the United Kingdom.

This is the largest qualitative study of its kind addressing public authorities in the European Union. It covers a wide-ranging selection of different national policy responses to equality policies, geographically distributed across the EU in diverse national, social and political contexts.

Table 1 shows the number of respondents per professional group interviewed for this research in each EU Member State. The number of interviews in each country varied according to the country's population size. The 19 Member States were divided into three groups according to population size; a minimum number of interviews was assigned per professional group. The final number of interviews for each group in each country varies slightly, as some national teams faced difficulties in recruiting respondents or managed to conduct more interviews than initially planned.

Table 1: Number of interviews conducted by country and professional group

	Group					
Country	**HE**	**LE**	**PO**	**TE**	**TH**	**Total**
AT	10	15	12	14	4	55
BG	14	14	9	14	2	53
DK	12	14	8	14	2	50
ES	25	11	12	24	3	75
FI	11	14	9	14	2	50
FR	23	21	11	20	2	77
GR	17	16	8	15	0	56
HR	9	8	9	8	2	36
HU	14	11	10	14	2	51
IE	7	11	7	11	3	39
IT	16	19	18	19	4	76
LT	8	10	5	7	5	35
LV	7	10	10	10	2	39
MT	8	9	7	14	2	40
NL	9	14	14	13	3	53
PL	26	23	12	22	2	85
RO	12	14	11	15	2	54
SK	8	10	7	10	2	37
UK	20	22	15	19	2	78
Total	**256**	**266**	**194**	**277**	**46**	**1,039**

Notes: HE: health professionals (healthcare providers, such as doctors, nurses, administrative staff); LE: law enforcement professionals (police chiefs, frontline officers); PO: public officials (in central or regional government, dealing with equality and anti-discrimination policies, and in human rights institutions and equality bodies); TE: education professionals (teachers and head teachers in upper secondary education); TH: trans healthcare practitioners (dealing specifically with healthcare of trans persons).

Source: FRA, 2015

The report is based on the data produced through the fieldwork research undertaken for this project in the 19 Member States. Data from FRA's EU LGBT survey are also used to contextualise the findings.

Interviewees were recruited through contacts with public authorities in each Member State, and the interviews, transcriptions and national summary reports were implemented and delivered under the close guidance and monitoring of FRA by the organisations that were part of Franet in 2013.[79]

79 More information on Franet is available at http://fra.europa.eu/en/research/franet. This web page includes all Franet contractors since October 2014.

The Centre for European Policy Studies, a Brussels-based external FRA contractor, performed the comparative qualitative data analysis that provided the basis for this report. FRA particularly wishes to thank Dr. Surya Monro, Kris Christmann, Graham Gibbs and Leanne Monchuk from the University of Huddersfield, United Kingdom, in collaboration with ILGA Europe, Professor Diane Richardson at Newcastle University, United Kingdom, and the Centre for European Policy Studies.

The 19 EU Member State research teams recruited the interviewees on the basis of criteria and guidance provided by FRA, which approved the final selection of public officials and duty bearers to be interviewed. The interviewees were selected from all relevant governance levels in each Member State: central, national, regional and local, higher coordination, headquarters and frontline officers. Different types and areas of public service were also represented (e.g. general and specialised medical practitioners, general and specialised or church-run schools, general and specialised anti-discrimination and anti-hate crime units in central government and law enforcement, etc).

The unwillingness or refusal of public authorities or individual public officials to participate in the research was a major challenge in most Member States. This was particularly common among law enforcement officers, especially in Hungary, Italy, Latvia, Lithuania, Romania, Slovakia and Spain; education professionals – especially teachers – in Bulgaria, Croatia, Hungary, Ireland, Italy, Latvia, Malta, Poland and the United Kingdom; and healthcare professionals – in Bulgaria, Croatia, Hungary, Lithuania, the Netherlands, Poland and Spain.

The main reasons for refusing to participate included discomfort with the subject, lack of time, lack of knowledge about the subject, fear of being exposed and identifiable, and lack of approval and authorisation by superiors. In some countries, healthcare and education professionals outside of the respective capital cities were more likely to refuse to participate.

The interviews were recorded as audio files in the original language. A representative sample of 393 interviews was fully transcribed and translated into English. This material was used together with national summary reports for the qualitative analysis in the present report.

Detailed information on the research methodology will be provided in the forthcoming Technical report.

Annex 3: FRA's work on the fundamental rights of LGBTI persons

Following FRA's creation in 2007, the European Parliament immediately requested it to start collecting and analysing data on respect for the rights of lesbian, gay, bisexual and trans (LGBT) persons. Since 2014, FRA's work also focuses on intersex people.

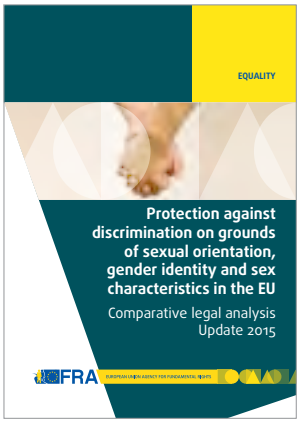
In 2008, FRA published its first report on the legal situation of LGBT persons, which has since been updated twice in 2010 and 2015. In 2009, FRA published a report on the social situation of LGBT persons based on existing data and information.

In 2012, FRA carried out the first ever EU-wide online survey on discrimination and victimisation of LGBT persons. The results, published in 2013, are based on the responses of over 93,000 self-identified LGBT persons in the EU. The survey paints a bleak picture. It shows that LGBT persons face obstacles to enjoying their fundamental rights. Almost half of the respondents said they have been discriminated against in various areas of life, particularly in employment and education. Many respondents have also been victims of violence and harassment, frequently in public places. Nevertheless, they rarely reported discrimination or incidents of violence or harassment to the police or other authorities. In their daily lives, many survey respondents said that they are not open about being LGBT with their family, and a majority avoid holding hands with their same-sex partner for fear of victimisation. The survey also shows that some groups, such as trans persons, suffer repeated violence and everyday victimisation, living difficult lives at the margins of society. In 2014, FRA published *Being Trans in the EU*, an in-depth analysis of the EU LGBT survey's results regarding trans respondents.

In 2013, FRA conducted large-scale qualitative research in 19 Member States to investigate the views, opinions, perceptions and experiences of public sector professionals in implementing and assessing policies and measures for protecting and promoting equality and the fundamental rights of LGBT persons in the EU. This report is the result of that effort.

In 2015, FRA updated its comparative legal analysis of legislation concerning the rights of lesbian, gay, bisexual, trans and intersex (LGBTI) persons and published a paper on the legal situation of intersex people from a fundamental rights perspective.

For further FRA publications looking at LGBT issues, see:









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FRA
EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

HELPING TO MAKE FUNDAMENTAL RIGHTS A REALITY FOR EVERYONE IN THE EUROPEAN UNION

The fundamental rights of lesbian, gay, bisexual and transgender (LGBT) people are often not respected across the EU. Public officials and other professionals in education, healthcare and law enforcement are entrusted with the duty to ensure that everyone's fundamental rights are protected and promoted. This report examines the drivers and barriers encountered by such frontline officers when doing their work. Drawing on extensive interviews with public officials, teachers, doctors, nurses and law enforcement officers in 19 EU Member States, it analyses their views and experiences, identifying persisting hurdles – such as perceptions of homosexuality as a pathological condition – and encouraging trends – including considerable commitment to improve the situation. In this way, this report provides new evidence on an under-researched topic, namely the efforts of public officials and other professionals in education, healthcare and law enforcement to fulfil the rights of LGBT people.

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