



Media reporting and reference guide on LGBT issues.

Including three case studies: Croatia, Greece, Lithuania

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Eliminating Transphobic, HOmophobic and biphobic Stereotypes through better media representation (E.T.Ho.S.)

Project coordinator: Dr. Christina Ioannou.

The project "Eliminating Transphobic, HOmophobic and biphobic Stereotypes through better media representation (E.T.Ho.S.)" is funded by the Rights, Equality and Citizenship Programme (2014 – 2020) of the European Union.

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Thanasis Theofilopoulos, April 2019.

Introduction

Dr. Christina Ioannou

Although we find ourselves at the dawn of 2019, sexual orientation, gender identity and sex characteristics, are considered primary factors of victimisation and discrimination. According to the Special Eurobarometer 437 (European Union, 2015), including interviews with 27.712 individuals from 28 EU member states, discrimination on the grounds of sexual orientation and gender identity are regarded as the second and third most widespread forms of discrimination in the EU as reported by more than half of the respondents. Those results are in line with earliest findings by the EU LGBT Survey conducted by the Fundamental Rights Agency (2013), where approximately half of 93.000 LGBT respondents indicated having felt personally discriminated against or harassed on the grounds of their sexual orientation.

A common and widespread phenomenon of discriminatory behaviour targeting the LGBT community is the media (re)production of negative stereotypes and perceptions about LGBT people and the misrepresentation of their behaviour and life. Take a moment to consider the most common portrayal of gay men in the media, with an over-the-top, hyper-feminine way, suggesting that men in the LGBT community and/or partners of a same-sex couple should identify with an exaggerated feminine role. Similarly, lesbians are portrayed either as very masculine or very feminine promoting to the readers/viewers the idea of sexual orientation related behavioural categorisations. In most cases where people find themselves amused by such impersonations, it is not because of what the individual says, whether they are funny or amusing, but rather because they act like a feminine, intentionally exaggerated man or a masculine, intentionally exaggerated woman. Such portrayals, a small portion of the existing ones about the LGBT community, are primarily heteronormative representations of the way same-sex couples and LGBT individuals behave, reaffirming negative stereotypes and influencing the individual's perception of and expectations from the LGBT community (McLaughlin & Rodriguez, 2017).

The LGBT community is in need of proper visibility, so as to promote respect and understanding of diversity in terms of sexual orientation, gender identity and sex characteristics. The media can be used in a positive, educational and awareness raising, way to change public opinion in favour of LGBT people and equality of human rights. Rather than (re)producing negative stereotypes of LGBT people, using offensive language against them, contributing to sustaining their social exclusion and "legalising" discrimination against them, the media

can instead play a vital role in communicating their needs and spreading awareness for human rights and justice, ultimately contributing to the achievement of equality and social cohesion.

In view of the importance of the role of the media in countering negative stereotypes against LGBT people and preventing and combating discrimination based on sexual orientation, gender identity and sex characteristics, the project E.T.Ho.S.: Eliminating Transphobic, Homophobic and Biphobic Stereotypes through better Media Representation, not only challenges long-lasting stereotypes and prejudices against LGBT people but also offers media professionals and media students the tools with which they can better cover and portray the LGBT community. Critically, the guide will offer media students and media professionals the ability to refer to the LGBT community and the different kinds of challenges that they face in a non-discriminatory and non-abusive way, rendering them valuable allies in promoting equality and human rights.

The project focuses on building the capacities of media professionals and media students in discussing and presenting the needs of the LGBT community using appropriate language and avoiding misrepresentation. The present guide resulted from thorough research as well as the experiences of experts, media professionals, media students and civil society organisations from 3 EU countries; Greece, Croatia and Lithuania. Desk research on the available data, resources and existing legislation was conducted and enriched with the findings from elaborate face-to-face interviews with relevant stakeholders and focus groups with a large number of media professionals and media students across Greece, Croatia and Lithuania.

The guide is divided into two parts. The first part outlines the basic concepts for media professionals and students, including definitions of key words and terminology, description of discriminatory phenomena, hate speech and hate crime, ways of using appropriate language and general guidelines for media professionals and media students. The second presents the case studies of Greece, Croatia and Lithuania based on the findings from the aforementioned research.

Overall, the guide serves as an invaluable asset for media professionals and media students who choose to be capacitated through E.T.Ho.S. in bringing LGBT issues to the surface, increasing visibility should it already exist and promoting proper visibility of the LGBT community and the issues they face by stopping the use of abusive, stereotypical and discriminatory language. Critically, it is not only a tool for active or future media professionals but also for civil society and the general public, contributing to a holistic approach of the matter, promoting in this way respect for human rights and social cohesion.

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Basic concepts and guidelines for Media professionals and students

Thanasis Theofilopoulos and Philippos Paganis

PART A

1. Basic LGBT Terminology

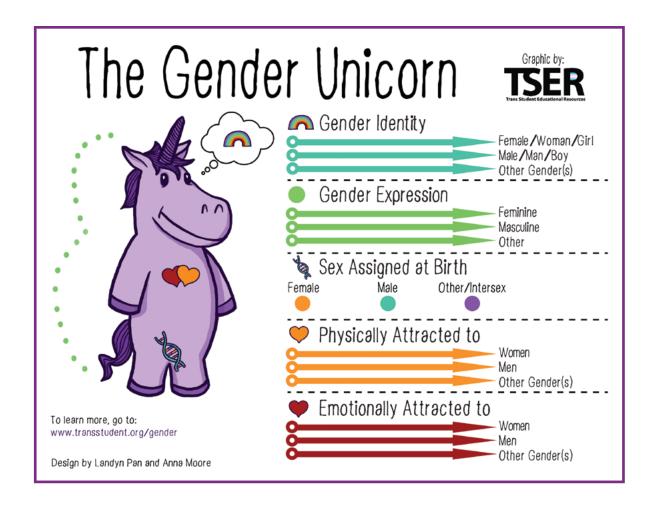
The LGBT acronym

- Lesbian: a woman who is sexually and/or emotionally attracted to women (ILGA Europe 2015).
- Gay: a man who is sexually and/or emotionally attracted to men. Gay is sometimes also used as a blanket term to cover lesbian women and bisexual people as well as gay men. However, this usage has been disputed by a large part of the LGBTI community and gay is therefore <u>only</u> used here when referring to men who are emotionally and/or sexually attracted to men (ILGA Europe 2015).
- **B**isexual: when a person is emotionally and/or sexually attracted to persons of more than one gender (ILGA Europe 2015).
- Trans: is an umbrella term, which includes those people who have a gender identity, which is different to the gender assigned at birth. It includes multiple gender identities, such as trans man, trans woman, non-binary, agender, genderqueer, genderfluid, etc. (TGEU 2016 July 4).

"+" from LGBT+ acronym may include (but not limited to):

- Asexual: An asexual person is someone who experiences no or very little sexual attraction. Asexuality is an intrinsic part of who these people are. Each asexual person experiences things like relationships, attraction, and arousal somewhat differently. Asexuality is a spectrum of identities that refers to people who experience little or no sexual attraction. Main examples of identities that fall under the asexual spectrum are: Asexual, Graysexual (people who experience sexual attraction but to a much lesser degree than non-asexual people) and Demisexual (people who experience sexual attraction only after creating a strong bond with another person) (based on the definition of AVEN N.d.a).
- Gender Non-Conforming: The term describes people whose gender identity, gender roles and/or gender expression differ from those expected, based on the gender that was assigned to them at birth. The terms «gender non-conforming» and «gender conforming» are also used to describe different behaviors and/or gender expressions in a non-gendered way, avoiding terms such as "masculine" or "feminine" (based on the definition of APA 2015).

- Intersex: Intersex persons are born with sex characteristics (such as chromosomes, genitals, and/or hormonal structure) that do not belong strictly to male or female categories, or that belong to both at the same time. Doctors often advise parents to perform surgical and other medical interventions on intersex newborns and children, to make their body (seemingly) conform to male or female characteristics. In most cases, such interventions are not medically necessary and can have extremely negative consequences on intersex children as they grow older. 'Intersex' stands for the spectrum of variations of sex characteristics that naturally occur within the human species. It also stands for the acceptance of the physical fact that sex is a spectrum and that people with variations of sex characteristics other than male or female do exist (Ghattas 2015).
- Pansexual / Omnisexual: These terms are used to describe people who have romantic, sexual or affectional desire for people of all gender identities (LGBTQIA Resource Center - University of California/Davis campus N.d.a.).
- Queer: Has become an academic term that is inclusive of people who are not heterosexual and/or cisgender includes lesbians, gay men, bisexuals and trans people. Queer theory is challenging heteronormative social norms concerning gender and sexuality, and claims that gender roles are social constructions. Traditionally the term "queer" was an abusive term and therefore for some still has negative connotations. Many LGBT+ persons however have reclaimed the term as a symbol of pride (ILGA Europe 2015).
- Questioning: It is the process of exploring one's own gender identity, gender expression, and/or sexual orientation. Some people may also use this term to name their identity within the LGBT community (LGBTQIA Resource Center - University of California/Davis campus N.d.a).



Sex:

It is the classification of people as male or female. At birth infants are assigned a sex, usually based on the appearance of their external anatomy. However a person's sex, as defined by biology, is a combination of bodily characteristics including: chromosomes, hormones, internal and external reproductive organs, and secondary sex characteristics. Persons whose biological sex cannot be classified as either male or female are classified as intersex, however they may identify as intersex persons, male, female, trans persons, or other.

Source: TGEU 2016 July 4

Sexual orientation:

Refers to each person's capacity for profound affection, emotional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.

Source: ILGA Europe 2015

Gender:

It refers, traditionally, to a social and cultural construct of being a man or a woman. However some people do not identify within the gender binary of man/woman. Gender exists independently of sex, and an individual's gender does not always correspond with the sex assigned at birth.

Source: TGEU 2016 July 4

Gender expression:

It is the external manifestations of gender, expressed through a person's name, pronouns, clothing, haircut, behaviour, voice or body characteristics. Society identifies these cues as masculine or feminine, although what is considered masculine and feminine changes over time and varies by culture. A person's gender expression may "match" their gender identity (eg. A man having a masculine gender expression), but this is not always the case.

Source: Based on the definition provided by TGEU 2016 July 4

DID YOU KNOW?

People with an intersex body can have as many gender identities (and sexual orientations for that matter) as people with a non-intersex body. Some intersex people have an intersex gender identity.

Source: Ghattas 2015.

Gender identity:

It refers to a person's inner sense of their gender. For trans people, their own internal gender identity does not match the sex they were assigned at birth. Most people have a gender identity of man or woman (or boy or girl), but for some people it does not fit neatly into one of those two choices. Unlike gender expression, gender identity is not visible to others.

Source: TGEU 2016 July 4

Terminology related to Trans people

- **Cis** or **Cisgender**: It is a term used to describe non-trans people. It is used in the same way as heterosexual is used to mean non-homosexual (TGEU 2016 July 4).
- Gender Variant: This term can refer to a person whose gender identity differs from normative gender identity and the gender roles/norms assigned at birth (ILGA Europe 2015).
- Gender Reassignment: The term refers to the process through which people re-define
 the gender in which they live in order to better express their gender identity. This
 process may, but does not have to, involve medical assistance including hormone
 therapies and any surgical procedures that Trans people undergo to align their body
 with their gender (ILGA Europe 2015).
- Gender Reassignment Surgery: Medical term for what trans people often call genderconfirmation surgery to bring the primary and secondary sex characteristics of a trans person's body into alignment with his or her internal self-perception (ILGA Europe 2015).
- Legal Gender Recognition: It is the official procedure to change a Transgender person's
 name and gender identifier in official registries and documents such as their birth
 certificate, ID card, passport or driving license. In some countries, it's impossible to
 have your gender recognized by law. In other countries, the procedure is often long,
 difficult and humiliating (TGEU 2016 July 4).
- Transition: It includes some or all of the following personal, medical, and legal steps: telling one's family, friends, and co-workers; using a different name and new pronouns; dressing differently; changing one's name and/or sex on legal documents; hormone therapy; and possibly (though not always) one or more types of surgery (referred to as gender reassignment or gender confirmation surgery). The exact steps involved in transition vary from person to person (TGEU 2016 July 4).

Are there differences and/or similarities between Trans and Intersex people? Differences **Similarities** Both lack recognition of their fundamental Intersex is about the body: being intersex means to be born with sex right to self-determination. Intersex people characteristics that do not conform because they are subjected to invasive medical to the medical and societal norms of treatment without their consent; trans people so-called male and female bodies. because they often face massive hurdles in obtaining the medical care they need as well as Trans is about gender identity: the recognition of their gender. being trans means to have a gender identity that is other than the gender/sex assigned at birth. Most people who are trans were born with a body that matches with the medical and societal norms of socalled male and female bodies. **Intersex** people are subjected to Both were considered - until recently - to have a "disorder" according to medical guidelines, invasive, irreversible treatment without their consent. protocols and classifications (although trans people have to deal with a "psychological Trans people often seek medical disorder" whereas intersex persons are attested interventions to adjust their body to have a "physical disorder"). to their gender identity but face Recently, "Gender Identity Disorder" which was problems getting the medical care included in ICD-10 as a psychological disorder they need. was replaced in the ICD-11 with a new diagnosis ("Gender Incogruence"), which is included in a the category "conditions related to sexual health". Both suffer from discrimination and human rights violations in a society where the dichotomy of male and female prevails, e.g. in school, at the

Please note that:

workplace or when practicing sport.

Intersex individuals may have a gender identity that does not match the sex that was enforced on them at birth. As a result, they may decide to use the legal mechanisms available in their country to adjust their name, gender marker and/or body to their personal comfort zone. Very often the only mechanisms available are those available to trans people. In practice though, some intersex people can be prevented from accessing those mechanisms, depending on legal or other requirements for each of those steps in their country.

Source: Ghattas 2015; TGEU 2018 June 18

The experience of being non-binary

Genderqueer or Gender-fluid or Non-binary people are those who do not identify with the male/female binary but somewhere outside or between. Some of them use neutral pronouns like "they" and "them". All of these terms - including **agender** and **bigender** people - do not have exactly the same meaning but they all refer to an experience of gender, which is not just male or female. Between the above mentioned term, the most used is "non-binary" (TGEU 2016 July 4; National Center for Transgender Equality 2016a July 9).

Why the term "Non-Binary"?

Many societies recognize just only two gender identities: male and female. This perception may sometimes be referred to as a "gender binary" because the term "binary" means something that "has two parts" — in this case male and female. Thus, non-binary is a term used by people who do not identify themselves as (only) male or female (National Center for Transgender Equality 2016a July 9).

Non-binary and Trans people

Non-binary people fall within the trans umbrella. Some, but not all, non-binary people - just like transgender people who identify within the gender binary - may undergo medical procedures in order to "adapt" their bodies to their gender identity (National Center for Transgender Equality 2016a July 9).

Non-binary and Intersex people¹

Non-binary people are not necessarily intersex people. Intersex people have an anatomy and/or genes that may fit with the biological/anatomical definition of male and female. They also usually identify themselves as male or female. On the other hand, non-binary people usually have a body which fits with the biological/ anatomical definition of male and female but they do not identify themselves as just males or females. (National Center for Transgender Equality 2016a July 9). Some intersex people may identify as non-binary - the same way they may identify as men or women - but the two identities are not intrinsically linked.

¹Non-binary and intersex, as terms, refer to different things.

2. Anti-LGBT hate crime, hate speech and discrimination.

"(...) violence, discrimination, and other harm based on sexual orientation, gender identity, gender expression and sex characteristics manifests in a continuum of multiple, interrelated and recurring forms, in a range of settings, from private to public, including technology-mediated settings, and in the contemporary globalised world it transcends national boundaries;

(...) violence, discrimination and other harm based on sexual orientation, gender identity, gender expression and sex characteristics have an individual as well as a collective dimension and that acts of violence and discrimination which target the individual person are also an attack on human diversity, and on the universality and indivisibility of human rights".

Source: The Yogyakarta Principles plus 10 (YP+10) 2017² November 10.

(...)

The Principles were developed and unanimously adopted by a distinguished group of human rights experts, from diverse regions and backgrounds, including judges, academics, a former UN High Commissioner for Human Rights, UN Special Procedures, members of treaty bodies, NGOs and others. The Rapporteur of the process, Professor Michael O'Flaherty, has made immense contributions to the drafting and revision of the Yogyakarta Principles.

A key event in the development of the Principles was an international seminar of many of these legal experts that took place in Yogyakarta, Indonesia at Gadjah Mada University from 6 to 9 November 2006. That seminar clarified the nature, scope and implementation of States' human rights obligations in relation to sexual orientation and gender identity under existing human rights treaties and law

The Yogyakarta Principles address the broad range of human rights standards and their application to issues of sexual orientation and gender identity.

These include extrajudicial executions, violence and torture, access to justice, privacy, non-discrimination, rights to freedom of expression and assembly, employment, health, education, immigration and refugee issues, public participation, and a variety of other rights.

The Principles affirm the primary obligation of States to implement human rights. Each Principle is accompanied by detailed recommendations to States. The Principles also emphasise, however, that all actors have responsibilities to promote and protect human rights. Additional recommendations are therefore addressed to the UN human rights system, national human rights institutions, the media, non-governmental organisations, and others". (in The Yogyakarta Principles. "About the Yogyakarta Principles". Retrieved from:

http://yogyakartaprinciples.org/principles-en/about-the-yogyakarta-principles/).

² "The Yogyakarta Principles are a set of principles on the application of international human rights law in relation to sexual orientation and gender identity. The Principles affirm binding international legal standards with which all States must comply. They promise a different future where all people born free and equal in dignity and rights can fulfil that precious birthright.

2.1. What is hate crime?

Hate crime: A definition.

"Hate crimes are criminal acts motivated by bias or prejudice towards particular groups of people. To be considered a hate crime, the offence must meet **two** criteria: First, the act must constitute **an offence under criminal law**; second, the act must have been **motivated by bias**".

Source: OSCE/ODIHR N.d.

Bias motivations and protected characteristics:

"Bias motivations can be broadly defined as **preconceived negative opinions**, **stereotypical assumptions**, **intolerance or hatred directed to a particular group that shares a common characteristic**, such as race, ethnicity, language, religion, nationality, **sexual orientation**, **gender or any other fundamental characteristic**. People with disabilities may also be victims of hate crimes".

Source: OSCE/ODIHR N.d.

Forms of hate crime:

"Hate crimes can include threats, property damage, assault, murder or any other criminal offence committed with a bias motivation. Hate crimes don't only affect individuals from specific groups. People or property merely associated with – or even perceived to be a member of – a group that shares a protected characteristic, such as human rights defenders, community centres or places of worship, can also be targets of hate crimes".

Sources: OSCE/ODIHR N.d.

DID YOU KNOW?

Malta and, since 24 December 2015, Greece are the only countries in Europe to explicitly provide protection against discrimination on the ground of 'sex characteristics'. The Maltese Act requires public services to eliminate unlawful discrimination and harassment and to promote equality of opportunity for all, irrespective of these characteristics.

Source: Ghattas 2015.

2.2. What is hate speech?

There is no unison EU level definition. One of the most known and used definition is the one provided by the Council of Europe:

"(...) the term "hate speech" shall be understood as covering **all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance,** including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin".

Source: Council of Europe Recommendation No. R (97) 20

Some of the protected values are not covered by the above Recommendation but, the term "or other form of hatred", thus "allowing one to extend the scope of activity in other grounds, such as, (...) sexual orientation (...) " (Zubčević et al. 2017:10).

In 2016, the European Commission against Racism and Intolerance (ECRI), introduced the following definition - which is more broad and inclusive - under General Policy Recommendation No 15 on combating hate speech:

"(...) hate speech is to be understood (...) as the advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of a person or group of persons, as well as any harassment, insult, negative stereotyping, stigmatization or threat in respect of such a person or group of persons and the justification of all the preceding types of expression, on the ground of "race", colour, descent, national or ethnic origin, age, disability, language, religion or belief, sex, gender, gender identity, sexual orientation and other personal characteristics or status (...) hate speech may take the form of the public denial, trivialisation, justification or condonation of crimes of genocide, crimes against humanity or war crimes which have been found by courts to have occurred, and of the glorification of persons convicted for having committed such crimes;".

Source: ECRI General Policy Recommendation No 15 on combating hate speech.

Motivations of hate speech:

"(...) the use of hate speech can reflect or promote the unjustified assumption that the user is in some way superior to a person or a group of persons that is or are targeted by it; the use of hate speech may be intended to incite, or reasonably expected to have the effect of inciting others to commit, acts of violence, intimidation, hostility or discrimination against those who are targeted by it and that this is an especially serious form of such speech;".

Source: ECRI General Policy Recommendation No 15 on combating hate speech.

2.3. What is discrimination?

Under the EU Law, "direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation" on the grounds of a protected characteristic such as racial or ethnic origin, religion or belief, disability, age, sex, sexual orientation, while "indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice" would put people of a protected characteristic "at a particular disadvantage" compared with people who have other characteristic(s) "unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary".

Sources: Directive 2000/43/EC; Directive 2000/78/EC; Directive 2004/113/E; Directive 2006/54/EC; Directive 2010/41/EU.

Discrimination & Harassment

Under the EU Law, **harassment** can be defined as a form of discrimination when and where "unwanted conduct" related to a person's protected characteristic "takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment".

Sources: Directive 2000/43/EC; Directive 2000/78/EC; Directive 2004/113/EC; Directive 2006/54/EC; Directive 2010/41/EU.

Types of discrimination:

There are different types of discrimination but "all can lead to victimization and harassment:

Direct discrimination: where a person is treated less favourably than others on grounds of his or her sexual orientation or gender identity.

Indirect discrimination: where an apparently neutral provision or practice would put people of particular sexual orientation or gender identity at a disadvantage compared to others.

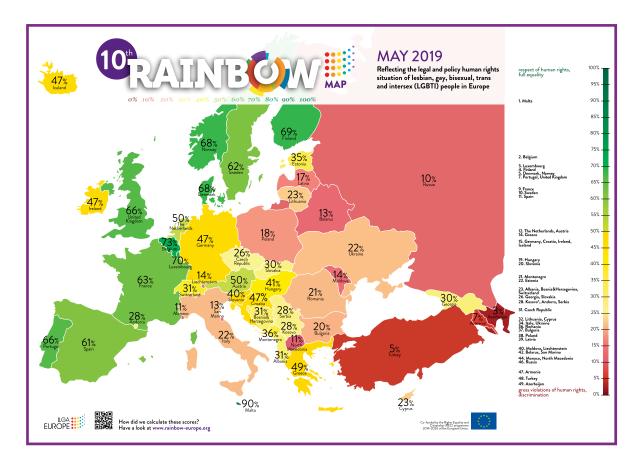
Multiple discrimination: discrimination based on more than one ground.

Experienced discrimination: also called subjective discrimination, is the experience of being discriminated against. Experienced discrimination does not necessarily entail discrimination in the legal sense.

Victimisation: a specific term describing discrimination that a person suffers because they have made a complaint or been a witness in another person's complaint.

Harassment: any act or conduct that is unwelcome to the victim, which could be regarded in relation to the victim's sexual orientation, gender identity/expression and/or as offensive, humiliating or intimidating. It can include spoken words, gestures or the production, display or circulation of written words, pictures or other material".

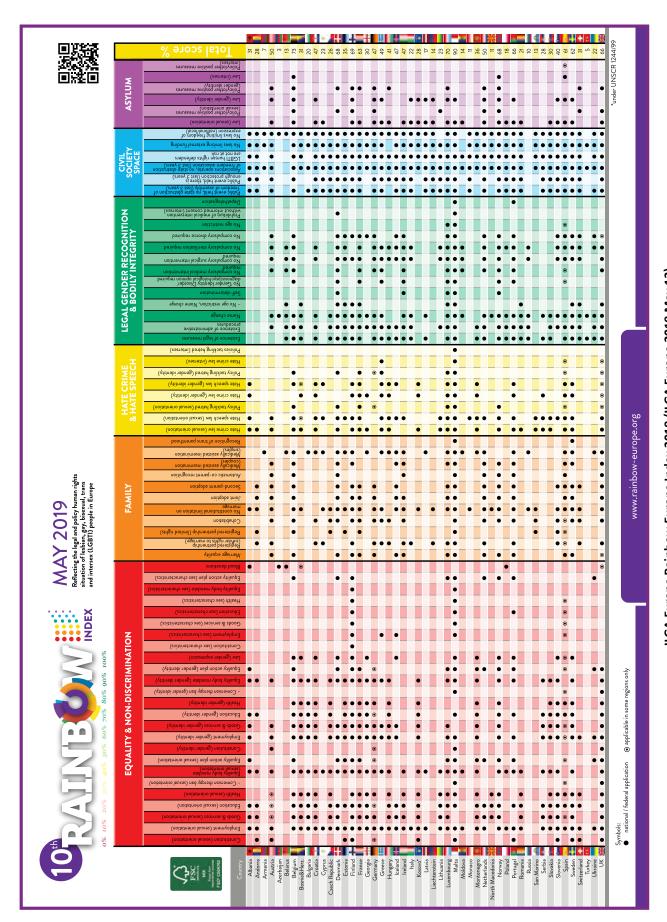
Source: ILGA Europe 2015.



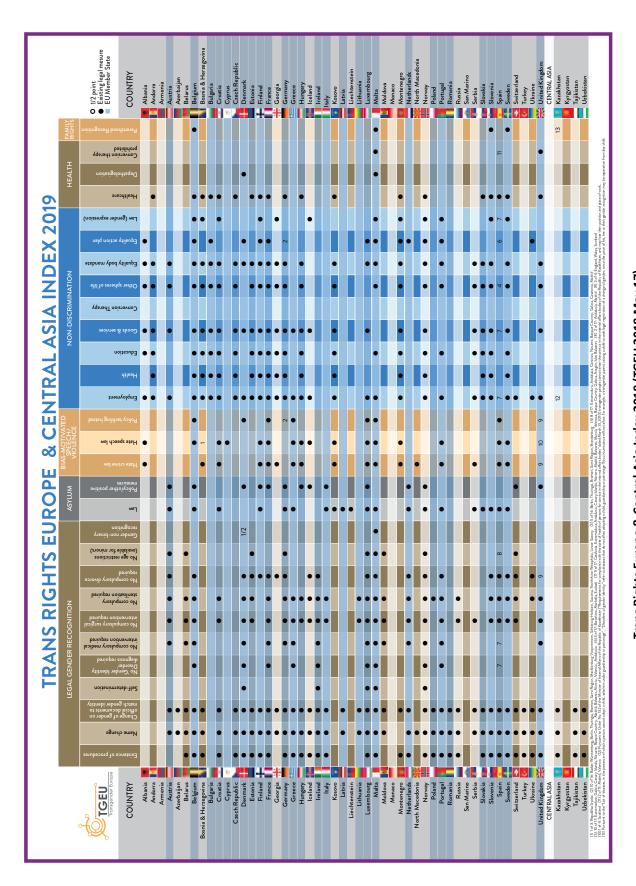
ILGA's Rainbow Europe Map 2019 (ILGA Europe 2019 May 13).

"Decline is indeed clearly noticeable on this year's Rainbow Map, ILGA-Europe's annual benchmarking tool, which ranks 49 countries in Europe on their LGBTI equality laws and policies. For the first time in the Index's ten-year history, countries are moving backwards as existing laws and policies disappeared:

- (...) The Rainbow Map & Index ranks 49 European countries on their respective legal and policy practices for LGBTI people, from 0-100%.
- (...) For the fourth year in a row, Malta (90%) appears at the top of the Rainbow Europe country ranking.
- (...) ILGA-Europe examine the laws and policies in 49 countries using a set of criteria from May 2019, the number of individual criteria used rises to 69. These criteria are divided between six thematic categories: equality and non-discrimination; family; hate crime and hate speech; legal gender recognition and bodily integrity; civil society space; and asylum" (ILGA Europe, 2019 May 13).



ILGA Europe Rainbow Europe Index 2019 (ILGA Europe 2019 May 13).



Trans Rights Europe & Central Asia Index 2019 (TGEU 2019 May 17).

The <u>TGEU's Trans Rights Europe & Central Asia Index</u> provides information for 53 countries in 29 legal categories.

"LEGAL GENDER RECOGNITION: (...) Such procedures exist in 42 of the 53 reviewed countries. Out of these, 36 prescribe a mental health diagnosis, 16 countries demand sterility, and 22 require a divorce. 33 countries impose age barriers, making access to legal gender recognition harder or impossible for minors. 5 countries base legal gender recognition procedures on self-determination of the person, and only one country recognises gender non-binary identities.

ASYLUM: 19 of the 53 reviewed countries off-er international protection on grounds of gender identity. 16 out of these are EU member states. 12 EU member states off-er no international protection for trans refugees and are thus violating EU law.

BIAS-MOTIVATED CRIME: Only 17 countries have explicit laws on bias-motivated crime, whereas only 7 countries have positive measures in place that are aimed at combating bias motivated crime and hate speech.

NON-DISCRIMINATION: 30 countries protect against discrimination in employment. 9 EU member states do not protect against discrimination in employment and are thus violating EU law. 26 countries protect against discrimination in access to goods & services. 11 EU member states have yet to introduce such explicit protection to implement EU law properly. 22 of the reviewed countries protect against gender identity-based discrimination in education. Only 11 countries provide protection related to the gender expression of a person. (...)

HEALTH: 19 countries offer express protection against discrimination in healthcare. Denmark and Malta are the only countries that have, to date, depathologised trans identities while ensuring stigma-free access to trans-specific healthcare for adults and minors. Only 2 countries prohibit conversion therapy on grounds of gender identity.

FAMILY RIGHTS: Only 4 countries recognise the gender identity of a trans parent on their child's birth certificate" (TGEU 2019 May 17).

Discrimination on the grounds of gender identity and sexual orientation: additional terms you need to know

- **Biphobia:** the fear, unreasonable anger, intolerance or/and hatred toward bisexuality and bisexual people (ILGA Europe 2015).
- Cissexism/Genderism: The pervasive system of discrimination and exclusion that oppresses people whose gender and/or gender expression falls outside of cis-normative constructs. This system is founded on the belief that there are, and should be, only two genders & that one's gender or most aspects of it, are inevitably tied to assigned sex. Within cissexism cisgender people are the dominant/agent group and trans/gender non-conforming people are the oppressed/target group (LGBTQIA Resource Center University of California, Davis campus N.d.a).
- **Feminism:** Political stance and commitment to change the political position of women and promote gender equality, based on the thesis that women are subjugated because of their gendered body, i.e. sex (European Institute for Gender Equality N.d.).
- **Gender equality:** means that women and men have equal conditions for realizing their full human rights and for contributing to, and benefiting from, economic, social, cultural and political development. Gender equality is therefore the equal valuing by society of the similarities and the differences of men and women, and the roles they play. It is based on women and men being full partners in their home, their community and their society (UNESCO 2003 April).
- **Heteronormativity:** refers to cultural and social practices where men and women are led to believe that heterosexuality is the only conceivable sexuality. It implies that heterosexuality is the only way of being "normal" (ILGA Europe 2015).
- Homophobia: fear, unreasonable anger, intolerance or/and hatred directed towards homosexuality (ILGA Europe 2015).
- Patriarchy: Literally 'rule by the father' but more generally it refers to a social situation where men are dominant over women in wealth, status and power. Patriarchy is associated with a set of ideas, a 'patriarchal ideology' that acts to explain and justify this dominance and attributes it to inherent natural differences between men and women. Sociologists tend to see patriarchy as a social product and not as an outcome of innate differences between the sexes and they focus attention on the way that gender roles in a society affect power differentials between men and women (Online Dictionary of the Social Sciences N.d.a)

- **Sexism:** Any act, gesture, visual representation, spoken or written words, practice or behaviour based upon the idea that a person or a group of persons is inferior because of their sex, which occurs in the public or private sphere, whether online or offline, with the purpose or effect of:
 - i. violating the inherent dignity or rights of a person or a group of persons; or
 - **ii.** resulting in physical, sexual, psychological or socio-economic harm or suffering to a person or a group of persons; or
 - **iii.** creating an intimidating, hostile, degrading, humiliating or offensive environment; or **iv.** constituting a barrier to the autonomy and full realisation of human rights by a person or a group of persons; or
 - v. maintaining and reinforcing gender stereotypes (Council of Europe Recommendation No (2019)1)
- Transphobia: is a matrix of cultural and personal beliefs, opinions, attitudes and aggressive behaviours based on prejudice, disgust, fear and/or hatred directed against individuals or groups who do not conform to, or who transgress societal gender expectations and norms. Transphobia particularly affects individuals whose lived gender identity or gender expression differs from the gender role assigned to them at birth, and it manifests itself in various ways, e.g., as direct physical violence, transphobic speech and insulting, discriminatory media coverage, and social exclusion. Transphobia also includes institutionalized forms of discrimination such as criminalization, pathologization, or stigmatization of non-conforming gender identities and gender expressions (TGEU 2016 July 4).

Marriage, family, parenthood and LGBT people

- Cohabitation agreement/rights: two persons living together at the same physical address can, in some European countries (and regions), make a legal agreement on some practical matters (which vary from country to country). The rights emanating out of cohabitation are limited (ILGA Europe 2015).
- Custody rights: where an individual LGBTI person, trans parents or same sex couple
 are treated in the same way as different-sex couples and single people when custody
 of children is discussed (ILGA Europe 2015).
- **Joint adoption:** where a same-sex couple is allowed to apply for adoption of a child (ILGA Europe 2015).

Marriage equality: where national marriage legislation also includes same sex couples – e.g. gender neutral reference to the spouses. Sometimes media outlets and decision makers incorrectly refer to the extension of existing marriage legislation to same-sex couples as 'gay marriage'. What they really mean is marriage equality; no country has created a marriage law specifically for same-sex couples (ILGA Europe 2015). Furthermore, marriage equality also affects people who are in same sex relationships but do not identify as gay (eg. Bisexual people, etc) and trans people who are in relationships with people of other genders but have not changed their legal documents and thus, are regarded by the state as a same sex couple.

Registered partnership: a legal recognition of relationships not always with the same rights and/or benefits as marriage - synonymous with a civil union or civil partnership (ILGA Europe 2015).

Rainbow family: A Rainbow Family is a same-sex or LGBT parented family. A Rainbow Family can be defined as any lesbian, gay, bisexual, transgender/gender diverse, intersex, or queer person who identifies itself as LGBT and has a child or children; or is planning on having a child or children by: donor insemination (known or unknown), surrogacy (altruistic or commercial), foster care, foster to adoption, adoption (domestic or international), relationships between people of different gender identity, co-parenting or other means. These families, like many modern families, come in all shapes and sizes and are formed in many different ways (based on the definition provided by Rainbow Families N.d.).

Same-sex relationships or couples: covers relationships or couples consisting of two people of the same sex (ILGA Europe 2015).

Same-sex marriage: There is no country, which has a specific marriage law solely for same-sex couples. The right term is marriage equality, as the aim is to open marriage laws to same-sex couples to give them the same rights as different-sex couples (ILGA Europe 2015).

Second parent adoption: where a same-sex partner is allowed to adopt their partner's biological child(ren) (ILGA Europe 2015).

Surrogacy: an arrangement in which a woman carries and delivers a child for another couple or for another person (ILGA Europe 2015).

3. Use of appropriate terms and language.

Inappropriate / problematic term/phrase	Appropriate/preferred
mappropriate / problematic term, pinase	term / phrase
"admitted"/"avowed" gay/lesbian/bisexual	Out/openly
Such phrases suggest feelings of embarrassment, shame, guilt	gay/lesbian/bisexual
(GLAAD 2016).	
"born " man/woman - "became" man/woman –	Assigned male/female at
Biologically/Anatomically male or female	birth
(see "Sex change" and "Transsexual").	Trans Man/ Trans Woman/
	Trans Non-binary
Homosexual	Gay (man) /
People are classified as homosexual on the basis of their gender	Lesbian (woman)
and the gender of their sexual partner(s). When the partner's	
gender is the same as the individual's, then the person is	
categorized as homosexual. It is recommended to use the terms	
lesbian and gay men instead of homosexual people. The terms	
lesbian and gay are being considered neutral and positive,	
and the focus is on the identity instead of being sexualized or	
pathologized (ILGA Europe 2015).	
"opposite" sex / "opposite" sex relationship	Different-sex
The term "opposite" is based on the incorrect assumption that	relationship
there are only two possible sexes and that they are immutable	
(ILGA Europe 2015).	
sex "change"	Transition
This phrase is inappropriate/problematic because it has a meaning	
of an "intervention" and/or "restoration" procedure – both to	
"fix" a "problem". Referring to a "sex-change operation," or using	
terms such as "pre-operative" or "post-operative," suggests that a	
person must have surgery in order to transition.	
Also, don't forget that many Trans people may or may undergo	
medical procedures during their transition, for different kind of	
reasons (for example, health reasons, financial reasons, fear of	
the outcome or complications etc.). But that does not mean	
that there are "less" women or men than Trans people who	
have undergone such procedures (Theofilopoulos 2015; GLAAD	
2016). A person's gender is real and valid no matter the transition	
procedures they chose to undergo. Finally, it should be highlighted	
that the realization of these procedures are often portrayed in a	
simplistic and inaccurate way.	

Sexual and or Gay/lesbian/bisexual "choice" or	Sexual orientation
"preference" or "taste"	
LGB people – exactly like straight people - do not choose their	
sexual orientation. Also, a person's sexual orientation is not a	
lifestyle – it is a basic characteristic of the human nature and	
personality. Some may use the term "choice", "preference"	
or "taste" when referring to LGB's people sexual orientation	
in order to show that is something that can be "changed" or	
even worse "cured" (Theofilopoulos 2015; GLAAD 2016).	
"special" rights of LGBT people / the LGBT "agenda"	Human rights of LGBT
There is no such thing. LGBT people demand equal treatment	people
and equal rights. They do not demand "privileges" and/or	or equal rights
"special treatment" (Theofilopoulos 2015; GLAAD 2016).	
"third" gender	Woman, man, non
If a person is transgender that does not necessarily mean that	binary etc.
this person has a "third gender." Most transgender people	
do have a gender identity that is either male or female, and	
they should be treated like any other man or woman (National	
Center for Transgender Equality 2016b July 9).	
transsexual	Transgender or trans
It is an older term that originated in the medical and	
psychological communities. The term is still preferred by some	
people who have permanently altered – or seek to alter –	
their bodies through medical interventions (including but not	
limited to hormones and/or surgeries). Unlike transgender	
or trans, transsexual is <i>not</i> an umbrella term. It is best to	
ask which term an individual prefers. If preferred, use as an	
adjective: transsexual woman or transsexual man (TGEU 2016	
July 4).	

	Abusive/offe	ensive terms and phrases
Term	Refers to	Description/Analysis
"fag", "faggot",	Gay/Bisexual/	Very common abusive and insulting terms – with a sexist
"homo", "fairy"	Pansexual men	background - mainly used against gay/bisexual/
	(but sometimes	pansexual men.
	to LGBT people in	
	general)	
"immoral",	LGBT people	Terms referring to all LGBT people. There is
"sinners",	, .	usually a religious background behind the use
"lustful",		of such terms. Although many representatives
"salacious"		of religions and religious people have used their
		religious beliefs to support anti-LGBT opinions,
		don't forget that millions of LGBT people around
		the world are religious themselves and that many
		religions and doctrines and Churches, as well as
		modern theologists, embrace LGBT people and
		diversity. If you want to learn more about LGBT
		people and their relationship with religion (and
		vice versa), visit the topic "Religion & Faith" of
		the Human Rights Campaign Foundation at www.
		hrc.org/explore/topic/religion-faith
"deviant",	LGBT people	Such terms as "deviant," "diseased" and
"disordered",	Labi people	"disordered" are used to portray LGBT people as
"dysfunctional",		less than human, mentally ill, or as a danger to
"diseased",		
		society. The notion that being LGBT is a mental
"perverted", "destructive".		disorder has been discredited by scientific research - learn more in section "11 + 1 most
destructive.		
		common negative stereotypes, prejudices and
"deceptive",	Trans noonlo	myths" (GLAAD 2016).
"fooling",	Trans people	Gender identity is an integral part of a person's identity. Such descriptions are inaccurate, defamatory
"pretending",		and insulting (GLAAD 2016). Such descriptions
"posing", "trap",		stem from the belief that a trans person's gender
"masquerading"		identity is not "true" or that trans people are
iliasqueraulig		,
		trying to "deceive" others (mostly used for trans
		women, by cis-straight men). Such descriptions
		are inaccurate, defamatory and insulting.

"shemale", "tranny"	Trans women	Such terms dehumanize transgender people (GLAAD, 2016). Especially the term "tranny" is very offensive (LGBTQIA Resource Center - University of California Davis campus N.d.b). They are offensive terms used often against Trans women and can be found in porn industry and porn websites. Such terms sexualize and objectify Trans women.
"so" gay/queer/ lesbian etc.	Gay men, but sometimes to LGBT people in general)	Offensive term for gay people and/or LGBT people in general. Their gender identity and/or sexual orientation, is used to describe something that is very repulsive, undesirable and/or ugly (LGBTQIA Resource Center - University of California Davis campus N.d.b).
"transvestite"/ "crossdressers"	Trans women	Offensive term mainly used against trans women and crossdressers. Rarely, some trans people use this term in order to identify themselves. But even if this is the case, always prefer the term "Trans" or "Transgender" to refer to Trans people (Theofilopoulos 2015). Crossdresser as a term, although it is considered more acceptable than transvestite, is still a problematic term, that is used to deny trans people's identity (mostly used to describe trans women as "men in dresses") and of course it is based on a very binary view of gender, where clothing and other accessories are strictly for men or women.
people with "unspecified", "unclear", "unknown" sex	Intersex people	The recognition of only two sexes (male and female) leads to the categorization of intersex people as people of "unspecific"/"unknown" sex. Such categorization is disrespectful, deprives intersex people of the rightfulness of their body and may also lead to the violation of their right to bodily integrity is via unconsented medical procedures (Ghattas 2015).

"hermaphrodite"	Intersex people	Abusive and offensive term for intersex people –
		it has a meaning of "oddity" and "abnormality".
		But even the term "intersex" was first used to
		describe a disorder that needs to be "fixed".
		During the last decades, the term "intersex" was
		adopted by (intersex) human rights defenders
		as an umbrella term based on the human rights
		(Theofilopoulos 2015; Ghattas, 2015).

4. 11 + 1 most common negative stereotypes, prejudices and myths

Prejudices and Stereotypes

Prejudice: Prejudice is to make a judgment about an individual or group of individuals on the basis of their social, physical or cultural characteristics. Such judgments are usually negative, but prejudice can also be exercised to give undue favor and advantage to members of particular groups. Prejudice is often seen as the attitudinal component of discrimination.

Stereotype: In sociology, the stereotype is always a social construction which may have some basis in reality but is a gross generalization (eg: women like romance novels). To stereotype is to apply these gross generalizations, to people or situations rather than seeing the individual variation.

Source: Online Dictionary of the Social Sciences N.d.b; Online Dictionary of the Social Sciences N.d.c

Ashmore and Del Boca introduced a wide and neutral definition of stereotype, according to which "a stereotype is a set of beliefs about the personal attributes of a social group" (Ashmore and Der Roca 1981:21). As Jussim et al. point out, according to the above mentioned definition, stereotypes

may or may not be accurate and rational, widely shared, conscious, rigid, exaggerations of group differences, positive or negative, or based on essentialist or biological rationales. Stereotypes may or may not be the cause or the effect of prejudice, or the cause of biases and self-fulfilling prophecies (Jussim et al. 2009:201).

But stereotypes are more often negative and even the expression of positive ones indicates that we can also express negatives:

In terms of negativity, the data are clear, and we probably should acknowledge it more fully, as we generally do regarding prejudice. Although they can be positive, stereotypes are primarily negative. We generate many more negative than positive stereotypes when asked to do so, and even expressing positive stereotypes is not seen positively. Consider how we might react to people who have claimed that African Americans have the positive traits of being athletic and musical. The problem, in part, is that if we express positive stereotypes, it is assumed that we hold the negative ones, too (Stangor 2009:2).

Most common negative stereotypes, prejudices and myths against LGBT people				
STEREOTYPES,	FACTS			
PREJUDICES, MYTHS				
"LGB people are mentally	"Homosexuality" was first de-pathologized in 1973 when the			
ill (perverts, pedophiles,	American Psychiatric Association removed the term/diagnosis			
sodomites, bestialists,	of "homosexuality" from its Diagnostic and Statistical Manual			
rapists, psychopaths etc.)".	(DSM) (Drescher 2015 December 4). On 17 May 1990, the			
	General Assembly of the World Health Organization (WHO)			
	removed homosexuality from their list of mental disorders. In			
	2004 the International Day Against Homophobia (today also			
	against Transphobia and Biphobia) was created in order to			
	"draw the attention of policymakers, opinion leaders, social			
	movements, the public and the media to the violence and			
	discrimination experienced by LGBTI people internationally"			
	(IDAHOTB N.d.). May 17 was chosen to celebrate this day as a			
	commemoration of the World Health Organization's decision			
	(IDAHOTB N.d.).			
"Trans people are	In 2018, the World Health Organization (WHO) released			
mentally ill (schizophrenic,	the new version of International Classification of Diseases			
disordered, dysfunctional	– ICD 11 which removed trans identities from the mental			
etc.)".	health disorders chapter. All trans-related diagnoses have			
	been removed from the chapter Mental health disorders. A			
	new chapter, Conditions related to sexual health, has been			
	added to ICD and it includes a new diagnosis of "Gender			
	incongruence" that replaced the previous "Gender Identity			
	Disorder" diagnosis. According to TGEU:			

"It is hoped that this shift will continue to give access to gender-affirming care while also ending a long history of so-called "conversion therapies", forced medicalization, forced hospitalization, and forced sterilization for trans and gender diverse people. (...) Historically, the pathologisation of gender identity through ICD over the past decades has contributed to the enormous stigma, discrimination, harassment, criminalization, and abuse on the basis of gender identity and expression" (TGEU 2018 June 18).

"There is only one right way to be a true transgender — true transgender people undergo medical treatments and/or proceed to legal recognition of their gender".

Gender identity is the way people experience their gender and does not depend on the transition procedures the person may follow. Some trans people want to medically transition, change their legal documents or change their appearance, but this is not the case for all. On the other hand, some people want to transition in some of the ways described above, but they are not able to do so for various reasons (eg. financial, health or safety reasons).

According to the National Center for Transgender Equality: "Some transgender people choose to medically transition, and some don't. Some transgender people choose to legally change their names or ID documents, and some don't. Some transgender people choose to change their appearance (like their clothing or hair), and some don't. Likewise, some transgender people may want to do many of those things but are unable to because they can't afford it or for safety reasons. A transgender person's identity does not depend on what things they have or haven't done to transition, and no two transgender people's journeys are exactly alike" (National Center for Transgender Equality 2016c July 9).

"Non-binary people are just a new trend and/or are confused".

"Non-binary people are nothing new. Non-binary people aren't confused about their gender identity or following a new fad – non-binary identities have been recognized for millennia by cultures and societies around the world" (National Center for Transgender Equality 2016a July 9).

"Trans people (want and/ or are able to) work only as sex workers".

It is true that many transgender people are sex workers. But this is a choice they are often forced to make because of discrimination and harassment against them in the employment sector.

Research and available data on the engagement of trans people in sex work are very limited, with research focusing mostly on cisgender female street-based sex workers.

According to TGEU, "The proportion of trans people among sex workers is context-specific. According to the "TvT Survey on the Social Experiences of Trans and Gender-diverse People"³, ninety-nine per cent of survey respondents in Colombia, 76 per cent in Turkey, 68 per cent in Venezuela stated that they earn their living by doing sex work. TAMPEP's mapping report from 2009 states that 6 percent of all sex workers in Europe are transgender, while 7 percent are cisgender male. However, these figures could be higher, as there are very few projects working with cisgender male and trans sex workers.

(...)

Trans people engage in sex work for a variety of reasons, most commonly because they live in a transphobic environment and face structural barriers to access to education and employment, and thus have limited economic and employment opportunities. The lack of quick, transparent and accessible legal gender recognition is a further driving factor. Bullying in educational settings could, at least partly, be fended off by identification documents with the name and gender matching gender identity or expression. Without this recognition, school drop-out rates, underperformance and suicidality remain a reality for many trans people in education.

³Available here: https://transrespect.org/wp-content/uploads/2015/08/TvT-PS-Vol9-2015.pdf

In a number of countries, for many trans people their low level or lack of education and the perceived difference between a person's gender expression and data in personal documents also put legal employment and fair payment out of reach. As a result they are exposed to poverty, homelessness and inadequate access to healthcare, including the inability to finance gender reassignment. These factors all contribute to the large number of trans people among sex workers in several contexts" (TGEU 2015 December 17).

Also, according a Report by the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe: "19. Discrimination against transgender persons occurs especially in the health sector and on the labour market and such persons are very vulnerable to hate crimes. It would appear that many people, including doctors and teachers, simply do not know what this is and associate the phenomenon with prostitution in exotic locations. 20. The effects of discrimination are compounded by difficulties in obtaining the medical interventions needed to realize their gender identity and in gaining legal recognition of it. These difficulties can greatly inhibit the enjoyment of other rights, particularly the right to work, leaving many transgender people facing poverty, and in some member **states, little alternative to engaging in sex work**. This extreme social exclusion brings with it serious health risks, and great vulnerability to abuse at the hands of the police and criminals" (Council of Europe 2010 March 23:9).

Furthermore, according to a more recent report of the Council of Europe:

"Discrimination against transgender persons may occur when they are not addressed by the correct name and/or pronoun or when they are denied time off work for gender reassignment (...) where men and women retire at different ages, transgender women may be forced to wait for a state pension until they reach male retirement age. Employees who are "out" at work, or suspected of being lesbian, gay, bisexual, or transgender, can experience indirect discrimination by employers, colleagues or clients which can include sexually explicit remarks intended to embarrass or ridicule. (...) Surveys suggest that up to 77% of transgender employees do not tell their employers about their gender identity and 50% of them find this stressful. They may find themselves pushed to the margins of the job market and out of formal employment, which in some Council of Europe member states results in transgender women working in the sex industry" (Council of Europe 2011 September:118-120).

"HIV is a disease related [only] to LGBT people".

"The transmission of HIV can occur where there are unprotected sexual practices between individuals while one of the individuals is HIV positive. This can happen between partners of the same or different sex, and is relatively more common among key populations including MSM [men/males who have sex with men/males] and transgender persons. MSM and transgender persons have an increased risk of HIV/STI infection in part due to network effects. Any sexual network in which people have multiple and concurrent sex partners is especially conducive to the spread of HIV. There is solid evidence of high rates of HIV risk behaviours among MSM and transgender persons in all countries where studies have been conducted. In addition, the few epidemiological studies that exist among transgender people have shown disproportionately high HIV prevalence, ranging from 8% to 68% depending on the context and the type of study carried out. However, research and data regarding transgender health is minimal relative to studies done on MSM related health issues. Unprotected anal sex is the highest risk practice for sexual transmission of HIV among MSM and transgender persons.

However, it is important to note that **human rights violations** and marginalisation can fuel the spread of HIV and jeopardise access to HIV prevention and treatment services. Factors such as stigma, discrimination, criminalization, and violence based on sexual orientation and gender identity contribute to hindering access to healthcare and social services, as well as HIV prevention, treatment and care services for these populations. These issues are further exacerbated as individuals encompass multiple forms of disadvantage on the basis of race, socioeconomic status, migration status in addition to sexual orientation and gender identity. Furthermore, many individuals including gay men, transgender persons, and/ or MSM have been identified as "key populations" which is a term that refers to those most likely to be exposed to HIV as a result of continuous systemic marginalization and **discrimination**. This group also includes sex workers, people in prisons and other closed settings as well as people who inject drugs. Responding to these challenges thus requires addressing the legal and policy barriers, including criminalization of same sex relations and of transgender persons that make many LGBTQI people vulnerable to HIV and hinder their access to and uptake of HIV and other health services" (World Health Organization 2016:7).

"LGBT people are unable to raise children / LGBT people's children will be dysfunctional".

According to the American Psychological Association, the California Psychological Association, the American Psychiatric Association, and the American Association for Marriage and Family Therapy: "(...) the scientific research that has directly compared outcomes for children with gay and lesbian parents with outcomes for children with heterosexual parents has been consistent in showing that lesbian and gay parents are as fit and capable as heterosexual parents, and their children are as psychologically healthy and well-adjusted as children reared by heterosexual parents. Empirical research over the past two decades has failed to find any meaningful differences in the parenting ability of lesbian and gay parents compared to heterosexual parents" (APA 2010 October 25:20-21).

"LGBT people's children will definitely become LGBT as well".

According to the same source, empirical research so far cannot "support the misconception that having a homosexual parent has a deleterious effect on children's gender identity (i.e. one's psychological sense of being male or female) development" and, "there is no scientific consensus about the specific factors that cause an individual to become heterosexual, homosexual, or bisexual—including possible biological, psychological, or social effects of the parents' sexual orientation. The available evidence indicates that the vast majority of lesbian and gay adults were raised by heterosexual parents and the vast majority of children raised by lesbian and gay parents eventually grow up to be heterosexual" (APA 2010 October 25:22-24).

"LGBT people are born (or become) LGBT due to specific reasons/ circumstances". According to the American Psychological Association:

"There is no consensus among scientists about the exact reasons that an individual develops a heterosexual, bisexual, gay or lesbian orientation. Although much research has examined the possible genetic, hormonal, developmental, social and cultural influences on sexual orientation, no findings have emerged that permit scientists to conclude that sexual orientation is determined by any particular factor or factors. Many think that nature and nurture both play complex roles; most people experience little or no sense of choice about their sexual orientation" (APA 2008:2).

"Asexuality does not exist – asexual people are just celibates".

"Asexuality is not celibacy - celibacy is a choice to abstain from sexual intimacy while asexuality is an orientation which results in lack of sexual attraction" (AVEN N.d.b). Moreover, asexuals can have successful romantic relationships with each other and even with sexual persons. In general: "There are myriad ways for asexuals to form close bonds and relationships with others. Some asexuals keep close friendships, some enjoy 'traditional' (but not sexual) romantic couplings. Others form completely different, perhaps unique, relationships. Asexuals can be 'more than friends' or even consider their relationships 'closer than lovers'. Asexuals can be part of traditional couplings, be a non-sexual loving partner of a polyamorous (loving many) person or perhaps part of a group marriage or some other non conventional relationship. (...) There are no rules dictating how non-sexual love is expressed" (AVEN N.d.b).

"Bisexual people have just not decided yet what they want/like - it is just a wandering phase, they are confused, they are gay/lesbian and they don't know it".

According to the safe "Safe Zone Manual" of the Antioch University:

"Bisexuality is a legitimate sexual orientation. While some people go through a transitional period of bisexuality as part of exploring lesbian/gay or heterosexual identity, some bisexuals explore homosexuality as a transitional phase in their coming out as bisexuals. For many others bisexuality remains the primary orientation. Many bisexuals may feel oppressed and con-fused while living in a society where bisexuality is oftentimes denied by both homosexual and heterosexual individuals. Fence sitting is a misnomer; there is no "fence" between homosexuality and heterosexuality except in the minds of people who rigidly divide the two. Whether an individual is an "experimenting heterosexual" or a bisexual depends upon how she/he defines her/himself, rather than on a rigid standard. While there are people for whom bisexual behavior is trendy, this does not negate the people who come out to a bisexual identity amidst pain and confusion and claim it with pride" (Antioch University/Seattle 2016 February 3).

"I can't understand the concept of "proud" LGBT people and their "pride" events — why are they "proud" - pride events are just for LGBT peo-ple who want to hook up with other LGBT and/ or to provoke the rest of the people and/or to promote their agenda".

Pride events (or festivals or marches) "are annual demonstrations (against homophobia/transphobia and in favor of LGBTI rights) that take place around the world" (ILGA Europe 2015). The first pride festival was organized in 1970, to honor the memory of the spontaneous rise of LGBT people against op- pression and police brutality one year ago:

"(...) in 1969, a now-famous event catalyzed the gay rights movement: The Stonewall Riots.

The clandestine gay club Stonewall Inn was an institution in Greenwich Village because it was large, cheap, allowed dancing and welcomed drag queens and homeless youths.

But in the early hours of June 28, 1969, New York City police raided the Stonewall Inn. Fed up with years of police harassment, patrons and neighborhood residents began throwing objects at police as they loaded the arrested into "paddy wagons." The scene eventually exploded into a full-blown riot, with subsequent protests that lasted for five more days.

Shortly after the Stonewall uprising, members of the Mattachine Society split off to form the Gay Liberation Front, a radical group that launched public demonstrations, protests, and confrontations with political officials.

Similar groups followed, including the Gay Activists Alliance, Radicalesbians, and Street Transvestites Action Revolutionaries.

In 1970, at the one-year anniversary of the Stonewall Riots, New York City community members marched through local streets in commemoration of the event. Named the Christopher Street Liberation Day, the march is now considered the country's first gay pride parade. Activists also turned the once-disreputable Pink Triangle into a symbol of gay pride (His- tory.com N.d.a). After many years, in 2016, "President Barack Obama designated the site of the riots—Stonewall Inn, Christopher Park, and the surrounding streets and sidewalks—a national monument in recognition of the area's contribution to gay and human rights" (History.com N.d.b).

5. Guidelines for Media professionals

5.1. General guidelines when communicating with LGBT people:

- Try not to make any easy assumptions regarding people's gender identity and/or sexual orientation. You can't just guess simply by having a look at them.
- Always use the name and/or pronouns people ask you to use. Thus, you will show them that you truly respect them and make them feel more comfortable. If you're not sure what pronoun you should use, just ask!
- **Be careful what you ask.** You may be curious about many issues for example details about medical procedures or sexual behavior/activity. Before making such questions, think for yourself: Do I need to know and why? If someone would make the same question to me, how would I feel?
- If you know a person's gender identity and/or sexual orientation that doesn't mean that everybody should know about it and/or that this person is "out". If you talk to an LGBT person and/or write something about them, be sure that any information regarding their gender identity and/or sexual orientation is relevant with the context (subject of discussion or document) and that the person consents to sharing this information.
- If you talk to a trans or non-binary person, do not ask them what their older or "original" name was. It is irrelevant information as well as a very rude and indiscriminate question.
- Respect the past of trans persons and refer to the period before transition with maximum sensitivity and discretion. This means that you should never publish/show pictures of them before their transition, without their authorization. Also, when referring to that period of their life, never use pronouns other than the ones they use for themselves. A trans person wasn't a man/woman and "became" something else they always were the gender they identify as.
- Use the language the person uses in order to describe themselves. Some LGBT people may (rarely) refer to themselves with terms that are considered offensive by the majority of the LGBT community e.g a transgender person may identify themselves as a "crossdresser" or "transsexual", and a gay man may use terms such "faggot" to refer to himself. Use such terms, only if the person you talk with or refer to identifies themselves in this way.

- You don't have to understand what it means to be LGBT in order to respect LGBT people. You may have not heard about some of the existing sexual orientations and/or gender identities or you find it difficult to understand them. But this does not mean that you may not respect their human rights.
- Don't make remarks and comments based on common gender based stereotypes. Even if you want to be supportive, you can still make a LGBT person feel uncomfortable and/or insulted and reproduce stereotypes. For example, don't say to a non-binary person that "he is such a beautiful/clever man" or "a beautiful/clever woman". Or don't say to a lesbian woman "that she is so beautiful and feminine" and that "you wouldn't have guessed that she likes women". Or don't say to a transgender person that he/she "looks exactly like a man/woman".

5.2. How can you be an ally to LGBT persons?

- Make LGBT people's existence visible by mainstreaming LGBT issues.
- Raise public awareness about the problems encountered by LGBT people. For example, monitor the human rights situation of LGBT people in the country and bring cases of anti-LGBT hate crime, hate speech and/or discrimination into the light.
- If you are a media employer, provide free promotion space to LGBT organizations who wish to advocate LGBT human rights.
- Inform your colleagues especially those who are interested in human rights and social issues about LGBT human rights and issues. One easy way to do that is to share with them relevant educational/information material like the one you hold in your hands!
- Remember and honor important dates for the LGBT community such as the International Day against Homophobia, Transphobia and Biphobia (17th May), the Intersex Awareness Day (26th October) and the Intersex Day of Solidarity (8th November) for the human rights of intersex people⁵, as well as the Transgender Day of Remembrance (for victims of transphobic hate crime 20th November), and Transgender Day of Visibility (celebrating the achievements of transgender people 31 March) by writing an article raising awareness on LGBT people's human rights, inviting/hosting LGBT people and organizations to share their stories and/or talk about LGBT issues, or making a supporting post/tweet on Social Media. Do the same when a pride event is organized in your town.

⁴ Want to learn more? Visit: www.dayagainsthomophobia.org

⁵ Want to learn more? Visit: www.intersexday.org

⁶ Want to learn more? Visit: www.tdor.info and www.tdor.tgeu.org

Keep educating yourself. If you don't know or if you are not sure, just ask and search!
 Get in touch with LGBT organizations and activists and ask them if they can provide
 training, advice or educational/information material for you. This will help you better
 understand LGBT issues and the challenges LGBT people face. Seek also resources and
 information on your own: you can find many relevant educational/information material
 online.

DID YOU KNOW?

"Ally" is a term used to describe someone who is supportive of LGBT people. It encompasses straight allies as well as those within the LGBT community who support each other, e.g. a lesbian who is an ally to the bisexual community.

Source: Human Rights Campaign Foundation 2014.

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Case studies: Croatia, Greece, Lithuania

PART B

Croatia: A long way to go.

Silvia Žufić Dujmović and Nataša Vajagić

1. The status of LGBT people in Croatia.

Several studies have been carried out on violence and discrimination against LGBT people in Croatia, but the largest field research was conducted in 2013 by Zagreb Pride, LORI and Queer sport Split. Six hundred ninety LGBT people were surveyed and the results showed that since 2006, 73.6% of respondents experienced some form of violence because of their sexual orientation, gender / gender identity and / or gender expression. The most common type of violence is psychological, followed by sexual and physical abuse. It is a worrying fact that only 7.7% of people reported violence, while only 8.4% reported violence to one of the LGBT rights protection organizations. Regarding discrimination, this research suggests that discrimination incidents occur mostly within the family; almost one out of three LGBT people experienced discrimination within their own family, and almost the same number of incidents took place in the catering industry and other services segment, which is indicative of the way LGBT people are treated by society.

The largest international research on violence and discrimination against LGBT people was conducted by the European Agency for Fundamental Rights – FRA (2013). A total of 93.079 LGBT people across the EU were surveyed, including Croatia, which was then the EU accession country. Research has shown that Croatia is at the very top with 60% of LGBT people who testified that they have experienced violence or discrimination on the basis of their sexual orientation and/or gender identity in the last 12 months. On the ILGA Rainbow Europe Map 2017, reflecting the European countries' legislation and policies guaranteeing LGBT human rights, Croatia ranks 11th over 49 countries scored, with an overall score of 62%. But, reports indicate that social acceptance of LGBT people in Croatia is still rather low. 68% of the Croatian respondents to the LGBT Survey (FRA, 2013) said that discrimination on the grounds of sexual orientation is "very widespread" in their country, while the EU average is 31%. 60% of the LGBT respondents stated that they had been personally discriminated against or harassed on the grounds of their sexual orientation, while the EU average is 47%. As a result, a great majority of LGBT persons in Croatia do not disclose their sexual orientation or gender identity, as confirmed by the same survey, which states that only 15% of the participants were very open or fairly open about their sexual orientation/gender identity. (ILGA Europe Annual Review 2016)

The Ombudswoman for Gender Equality, whose responsibilities include gender minorities, carries out the activities of an independent body responsible for combating discrimination in the area of gender equality. Her responsibilities include gender minorities. Thus, in her annual report for 2017, the Gender Equality Ombudswoman said that the State Attorney's Office reported only 3 criminal charges for a criminal offense of hate crime motivated by prejudice based on sexual orientation. Of these, one case was only at the stage of the inquest, one indictment was filed for a criminal offense of bodily injury, but there was no qualification of a criminal offense as a hate crime (as stated in the criminal report) and in the third case an indictment was filed for a hate motivated criminal act. If we compare this data with recent research on LGBT violence (Ombudswoman for Gender Equality's report, 2016; 2017), the ineffectiveness of the justice system becomes even more visible.

As far as discrimination is concerned, the Gender Equality Ombudswoman received only 3 reports in the field of labour and employment. If we compare this number with the "LGBTI Workplace Equality" survey that showed that 75.1% of respondents experienced a certain form of discrimination in the work environment due to their sexual orientation and / or gender identity / expression (K-Zona 2017), it can be concluded that LGBT persons don't report discrimination out of fear of disclosing their identity or of secondary victimization, as expressed during the research.

Regarding trans rights in Croatia, there is still no regulated subsidy system for certain medical treatments and interventions, and therefore medical procedures for the purposes of transition are not provided for free. Trans people also face harsh discrimination in the issuing of second-degree certificates and diplomas, again due to the lack of regulations that schools and universities would have to act upon, so the procedure depends on school/university internal decisions. As far as the name itself is concerned, every person has the right to change their name without any obstruction in the sense that a name is considered "male" or "female", no matter what gender is specified in the document. Every person can change his/her name just by issuing a request, there are no other actions required. A minor can change his/her name only with the approval of both parents (if they both have parental rights).

Gender reassignment procedure is a long and demanding process. Legal gender recognition is governed by the Law on State Register and the Ordinance on the manner of collecting medical documentation and establishing conditions and assumptions for gender reassignment or life in another gender identity. According to the Ordinance, a person may not be forced to undergo medical treatment, including surgical interventions, sterilization or hormone therapy, as a prerequisite for recognition of gender reassignment or a life in

other gender identity, and each person has the right to respect for her or his personal and family life in accordance with his or her own gender identity.

There is no third gender option in Croatia.

The status of LGBT human rights in our society, among young people, is very bad. It was proven by the research conducted by GOOD initiative on civic and political literacy conducted among the students that has shown that the least tolerance is observed in relation to the LGBT. Half of the respondents perceive it as a disease and would forbid LGBT persons to talk publicly in order to prevent bad influence on young people (GOOD Initiative 2015). Religion classes in educational system adopt the stance of the conservative Catholic Church, thus reproducing negative stereotypes and prejudices against LGBT people.

In Croatia, there are only few persons who are out, which also says a lot about the climate in society. Regarding public figures who came out, respondents in the interviews held at the beginning of E.T.HO.S. project stated that they could count LGBT people who are openly LGBT on one hand, including activists known to the public. They listed activists, journalists, and artists, but they are not sure if they are out to the public.

Hate speech against LGBT persons in Croatia is present in different forms: in the public domain, in the media, in the electronic media, and in the last 10 years on social networks. After 2013, Zagreb Pride noted a high increase in hate speech against LGBT persons due to events occurring that increased tensions in the society. The frequency of hate speech was especially high in these cases: in 2013 during collection of signatures for a referendum on prohibition of same-sex marriage, in 2015 at the time of the regular parliamentary elections, in 2016 on the eve of the 15th Pride March, after the constitution of the right wing Government of the Prime Minister Orešković and in 2017 after a homophobic attack on the attendees of LGBT-themed party held at the Club "SuperSuper" in Zagreb (Zagreb Pride 2018).

Racist and intolerant hate speech in public discourse is escalating; the main targets are Serbs, LGBT persons and Roma. There is a growing rise of nationalism, particularly among the youth, which primarily takes the form of praising the fascist Ustaša regime. In the regional media and on Internet, expressions of racism and xenophobia against Serbs, LGBT persons and refugees are commonplace, as is abusive language when referring to Roma. Physical attacks against these groups as well as their property also occur (ECRI 2018:9)

Croatia had the opportunity to say no to homophobia and to the homophobic referendum, but it was held in 2013 and it introduced into our Constitution the provision that marriage can only be between a man and a woman. The same government that allowed for the

referendum to take place, then pushed for the adoption of the Law on Life Partnership. That law may not have been adopted so quickly if there was no referendum initiative. The impression is that the Act was made in a response to a homophobic referendum. The law passed, but is again discriminatory because it does not allow adoption of children. The Catholic Church has adopted a hostile stance towards legislation which promotes and protects the human rights of LGBT people. Such currents lead to increased violence and hostile climate against LGBT people in the country.

2. LGBT people and issues in Croatian media.

The media undoubtedly has the power to create public awareness. In the last 17 years, we can see the progress in media reporting, but some problems remain present throughout these years. The LORI Association conducted a research in 2001 and 2003 on media coverage of LGBT people. The conclusion of the research was that LGBT themes are often reported inaccurately, in a sensationalistic and superficial way. Media workers are not sufficiently informed about the subject and they approach it as "exotic and extravagant". This irresponsible reporting supports stereotypes and prejudices and spreads ignorance. Each year, the Gender Equality Ombudswoman conducts a survey on reporting on "sexual and gender minorities", which is a good tool for the comparison of the progress of reporting.

In 2016, according to the Gender Equality Ombudswoman report, the media mostly reports on "the ways in which certain countries of the world are referring to LGBT persons, worldwide protests for and against the rights of sexual and gender minorities (33%), and then the Pride protests in Croatia (26%). Of the other topics, a number of articles were about hate speech, life partnerships, activities of organizations dealing with promotion and protection of the rights of sexual and gender minorities, court rulings, few articles on trans persons, gender identity discrimination, violence and interviews with members of sexual and gender minorities who have shared their personal experiences" (Gender Equality Ombudswoman Annual Report 2016). In 2017 the situation was similar: the media mostly reported on Pride events in different cities, about life partnerships, about the Prime Minister of Serbia as an outspoken lesbian, court verdicts in cases of discrimination based on sexual orientation, discrimination against LGBT persons in the labour market, violence against sexual and gender minorities, homophobia, activities of civil society organizations, personal testimonies of sexual and gender minority persons. The Ombudswoman (2017) reviews the titles and articles as objective and informative.

In conclusion, unlike in the early 2000s, the media reporting takes place in a neutral and informative manner. However, the media don't have a proactive approach and don't deal

with or examine the roots of the problem. This could change through additional education and the dissemination of knowledge about the lives, problems, challenges and the reality of LGBT people in Croatia.

There are few LGBT media in Croatia and some LGBT friendly media. Some of them are Crol – LGBT News Portal, HAER, Libela, Voxfeminae, H-alter, Lupiga, Novosti.

Especially hostile are the far right, conservative media and/or media close to the Catholic Church in Croatia. During the interviews conducted for the purposes of the project's ETHOS field research, respondents said they see them as hostile because they allow guests to say anything, without dissociating from hate speech, and some of the media are clerical, ultraright and widespread homo / bi / transphobia without anyone sanctioning it.

3. National legal framework on hate speech, hate crime and discrimination.

Croatia has a comprehensive legal framework protecting LGBT people from violence and discrimination as well as protecting their family life. The most important laws are the Anti-Discrimination Act, the Criminal Code and the Act on the Lifelong Partnership of Persons of the Same Sex.

The **Anti-Discrimination Act** (NN 85/08, 112/12) provides the protection and promotion of equality as the highest value of the constitutional order of the Republic of Croatia, the preconditions for achieving equal opportunities are made and the regulation of protection against discrimination, including gender identity, expression or sexual orientation.

Hate crime is defined by the **Criminal Code** (NN 125/2011, 144/2012, 56/2015, 61/2015, 101/2017) as "a criminal offense committed on basis of (...) sexual orientation or gender identity of another person". The law stipulates that the criminal offenses of severe murder, female genital mutilation, bodily injury, severe bodily injury, especially severe bodily injury, serious criminal offense against sexual freedom and causing disorder committed out of hatred, they constitute a qualified form of criminal offense and are punished more severely.

Criminal Code regulates **hate speech** through Article 325: "Whoever by means of press, radio, television, computer system or network, on a public event or other form of publicly promoting hate or publicly makes accessible leaflets, pictures or other materials that calls for violence or hatred directed towards a group of people or a member of a group because of their (...) sexual orientation, gender identity, (...) or any other trait, shall be punished by imprisonment for a term not exceeding three years".

Hate speech is also regulated by the **Electronic Media Act** (NN 153/2009, 84/2011, 94/2013, 136/2013): "Audio and / or audiovisual media services are not allowed to encourage, favour the encouragement and spread hatred or discrimination on grounds of (...), gender identity, expression or sexual orientation, (...). "(Electronic Media Act, Art. 12, para. 2).

The Media Act (NN 153/09, 84/11, 94/13, 136/13) states that "It shall be prohibited to transmit programme contents in the media which incite or glorify ethnic, racial, religious, gender or other inequality or inequality on the basis of sexual orientation, as well as ideological and state creations on the basis of such foundations, and to provoke ethnic, racial, religious, gender or other animosity or intolerance, animosity or intolerance on the basis of sexual orientation, to incite violence and war." (The Media Act, art. 3, para. 4).

The Act on the Life Partnership of Persons of the Same Sex (NN 92/14) was adopted in 2014 and same-sex families were recognized and equalized in the rights and obligations of the marital spouses. The law is discriminatory in terms of adopting children, as life partners are denied access to adoption. However, it is possible to obtain parental rights for a partner who is not a legal parent of the child through the guardian partner status.

Gender Equality Act (NN 82/08, 69/17) prohibits discrimination on grounds of sexual orientation, especially in the marketing industry and in the media.

The Medical Assistance Act (NN 86/12) states that the right to medically assisted insemination is for women, who are married, live in an extramarital community or without a partner, but only as a form of infertility treatment. This law does not specifically mention life partners, but the The Act on the Life Partnership of Persons of the Same Sex prohibits discrimination against life partners regarding the obligations, rights or benefits related to health insurance and health care. For this reason, a woman who is in a life partnership and has been diagnosed with infertility can exercise the right to a medically assisted insemination. Before the adoption of the The Act on the Life Partnership of Persons of the Same Sex, this was not the case.

The change of the name change is governed by the **Personal Name Act** (NN 118/12, 70/17) and every person can and may change their personal name.

The rights of trans persons in Croatia are regulated by the Ordinance on the manner of collecting medical documentation and establishing conditions and assumptions for gender change or life in another gender identity (NN 132/14).

The rights of intersex persons are in no way legally protected.

4. The role of the state.

Based on the studies conducted in Croatia (Zagreb Pride 2013; K-Zona 2017; Ombudswoman for Gender Equality 2016/2017), the impression is that the state - including public media - does not do enough to protect LGBT persons and this is witnessed by a large number of violence against LGBT people and a small number of reported violence, and an even smaller number of prosecuted violence. LGBT people are experiencing violence and discrimination every day, but they are afraid to talk about it publicly. There is an extremely small number of LGBT people who are publicly out, which is indicative of the hostile climate in society. Although the obligations of the state are to promote pluralism and diversity of the media (The Media Act, art.5), public media covers LGBT issues rarely, and its employees can show homophobic attitudes. In 2012 on Croatian radio-television, a public media service employee stated that "85% of homosexuals are pedophiles". She was suspended, but later continued working for the same public media. This isn't the only example of public television discriminating LGBT people. Croatian television aired the report on the death of George Michael saying his life was "filled with alcohol, drugs and homosexualism". They not only reduced the artist and his legacy to narcotics, but also indicated that being gay is the same as being a drug addict. Also, they used the term "homosexualism", which is an offensive word. While in some EU countries public television has sponsored LGBT events or projects, that is not the case in Croatia. For example, in Greece public television has sponsored a help line for LGBTQI people. Croatian public television rejected to air two videos which promoted LGBT human rights in 2002 and 2008 because, as they stated, "the kiss lasted too long".

There is no separate policy document in Croatia that would include combating homo/bi/ transphobia in all areas of everyday life, including education, employment and health care. There is a National Plan for Combatting Discrimination in Croatia (2017-2022) and Action Plan (2017-2019) in which LGBT persons are barely mentioned. In the part regarding Public media and informing, there is no specific mentioning of LGBT persons, it only states that the Public media should abolish stereotypical, offensive and humiliating media coverage of individuals or groups on any grounds of discrimination. Before voting on this document, there has been a big public debate in which ultra-conservatives wanted to remove any mention of LGBT persons, gender, gender minority and gender identity.

The Code of Public Servants (OG 40/2011) contains measures to raise awareness of public authorities and/or institutions to refrain from hate speech against LGBT people. Article 6 states that public servants are obliged to ensure the rights, integrity and dignity of their profession without the discrimination, including discrimination based on sexual orientation and any other ground. Still, only a limited response to raising awareness took place – Croatia

implemented the No Hate Speech Movement campaign in 2014 against online hate speech. LGBT persons were only marginally included/mentioned in the campaign. No other national awareness raising campaigns were implemented after that (Zagreb Pride 2018).

5. Good practices.

The examples of good practice in Croatia are rare, regarding trainings for the media. There are many examples of working with the police, ombudsperson offices, schools, etc., but there aren't (m)any training workshops for the media staff/students.

Trans Aid, an association from Zagreb, organized education on "media reporting on Trans, inter, and gender variant persons (TIRV) for journalists, editors and journalism students". The education offered an overview of the appropriate terminology, recommended reporting principles and provided examples of good and bad practice (2017). Except for this education, there are no recent projects implemented in Croatia regarding the work with the media, but LORI implemented such projects at the beginning of 2000: by continuous monitoring and analysis of the printed media (2001 and 2003), LORI concluded that the media are insufficiently informed about the social and political context of discrimination against LGBT persons and violations of their human rights. Media coverage of LGBT topics has often proved inaccurate, sensational and superficial. Media professionals have shown themselves to be insufficiently informed and not too keen to promote human rights and LGBT people. Through the media awareness campaign, the LORI Association's goal was to have an impact on the media and their way of reporting on LGBT issues, and by that also have an impact on the society (LORI 2003).

During the field research in E.T.Ho.S project, we learned that lectures on LGBT topics were held at the Faculty of Political Science, but they were not included in the Faculty's curriculum.

As a good practice, there is a FB page "Our daily sexism" held by the Centre for Civil Initiatives Poreč. The site not only reveals sexism, but also homo / bi / transphobia in the media, thus raising awareness of the public and reporting these cases to the Ombudswoman for Gender Equality.

It is important to emphasize that the media has certainly played an important role during the homophobic referendum in 2013, which introduced the definition of marriage as a community exclusively for women and men into our Constitution. Many media stated that they were against this referendum. They put the sign "Against" on the cover of their daily issue or on the banner on their web page, and openly took side for the protection of human rights of LGBT people in Croatia.

In 2017 a TV ad for Erste Bank was aired on national TV stations, in which a gay couple was shown holding hands, along with a trans person. There was a petition created by conservative organizations to remove the ad because "it promotes transgenderism and homosexual way of life". The petition didn't collect enough signatures and TV ad continued to be aired. Taking a political stand is becoming more popular among big companies and airing their ads in national media raises awareness in society.

In 2018 there was a case of two gay tourists who wanted to rent an apartment via Booking. com. The host rejected them by saying that he doesn't accept gays. Booking.com ended their cooperation with that host. This case got a lot of media exposure and mainstream media reported by supporting the rights and dignity of the couple.

6. Conclusion and recommendations.

Croatia has made relevant steps regarding the improvement of LGBT rights in the last 4 years, especially when it comes to legally recognizing LGB life-long partnerships, but it still has a lot to work on regarding discrimination, hate speech and hate crime against LGBT persons.

Although the existing legal framework in Croatia is on the satisfying level, there is a problem of law implementation. Because of the homo/ bi/ transphobic climate in society, the ineffectiveness of the judicial system and secondary victimization, the reports of violations of law, on violence and discrimination are extremely rare. There is a need to work on raising awareness in the society and tackling homo/bi/transphobia, and the media is a channel that should act proactively on this regard. On the other hand, the role of the state should be to promote equal rights for all, and it should certainly be invested in education of all levels and institutions.

Recommendations for the state:

- Encourage authorities to implement awareness raising campaigns against homo/bi/ transphobia.
- Encourage political parties to take a non-discriminatory stand regarding LGBT in public statements/appearances.
- Support LGBT events/organizations financially or by promoting LGBT events/projects through media

Recommendations for the media schools:

- Incorporate LGBT human rights courses in the curriculum in journalism schools
- Cooperate with LGBT/human rights organizations

Recommendations for the media:

- Encourage media professionals to regularly attend educations regarding LGBT human rights.
- Encourage media professionals to prevent and sanction hate speech on the social networks they manage.
- Encourage media professionals to report in a non-sensationalistic way and to take a proactive approach when reporting on LGBT persons/human rights/events/life etc.
- Cooperate with the LGBT organizations/community

7. Contact information.

LGBT Media in Croatia:

• Crol – LGBT News Portal

Website: www.crol.hr

• HAER

Website: www.gay.hr

• Libela

Website: www.libela.org

Voxfeminae

Website: www.voxfeminae.net

LGBT Organizations in Croatia:

Iskorak

Online counseling; testing for HIV and syphilis; support for people living with HIV.

Tel: 0800 444 004

E-mail: informacije@iskorak.hr
Website: www.iskorak.org
Facebook: @iskorak.hr

Kontra

For lesbian and bisexual women; telephone, e-mail and legal counseling

Tel: 098/238 308

E-mail: kontra@kontra.hr
E-mail: pravnitim@kontra.hr
Website: www.kontra.hr

• Lesbian organization Rijeka "LORI"

Psychological and legal support for LGBTIQ people; education for institutions and service providers.

Tel: 051 212 186

E-mail: loricure@yahoo.com

Website: www.lori.hr Facebook: @loriaktiv

Trans Aid

Individual and group psychological support for trans persons.

Tel: 097 668 7267

E-mail: info@transaid.hr
Website: www.transaid.hr
Facebook: @TransAidCroatia

Zagreb Pride

Legal counseling for LGBTIQ people; education for institutions and service providers;

support groups for LGBTIQ youth.

Tel: 01 580 6560

E-mail: info@zagreb-pride.net
Website: www.zagreb-pride.net

Website: <u>www.zivotnopartnerstvo.com</u>

skype: zagrebpride

Facebook, Twitter, Instagram, Youtube: @zagrebpride

Other Civil Society Organizations which support LGBT people:

Centre for Civil Initiatives Poreč

Legal support for victims of discrimination, violence and

domestic violence (including LGBTIQ victims); educational programs.

Tel: 052 452 746 & 052 428 586 E-mail: cgiporec@cgiporec.hr Website: www.cgiporec.hr Facebook: @CGIPorec

Centre for sexual rights – Women's room

Psychological and legal support; educational programs.

Tel: 01 611 9444

E-mail: zenska.soba@zenskasoba.hr

Website: www.zenskasoba.hr Facebook: @zenska.soba

Center for Nonviolence and Human Rights - SOS Rijeka

Legal and psychological counseling for all victims of violence.

Tel: 051 211 888

E-mail: pomoc@sos-rijeka.org
Website: www.sos-rijeka.org

Facebook: @SOSRijeka

• Victims and Witness Support Association - the National Call Center for Victims Legal and psycho-social support for victims of misdemeanor and criminal offenses.

Tel: 116 006

E-mail: pzs@pzs.hr Website: www.pzs.hr

Facebook: @zrtveisvjedoci

Twitter, Instagram: @NPC_116006

National Equality Body:

• Ombudswoman for Gender Equality

Tel: 01 4848 100

E-mail: ravnopravnost@prs.hr

Website: www.prs.hr

National Body for the supervision and regulation of the radio/television market:

• Agency for Electronic Media

Tel: 01 488 2610

E-mail: <u>info@e-mediji.hr</u> Website: <u>www.e-mediji.hr</u>

Police Services:

• Ministry of Internal Affairs

Report via mobile application: https://www.mup.hr/novosti/803/nove-mogucnos-ti-mup-ove-mobilne-aplikacije-za-e-dojave

Tel: 112

Website: www.mup.hr

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 http://goo.hr/wp-content/uploads/2015/09/Rezultati-istra%C5%BEivanja-percepcije-i-stavova-ispitanika-o-gra%C4%91anstvu.pdf
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Greece: Two-speed LGBT reporting: Increasing visibility but still facing prejudice.

Thanasis Theofilopoulos and Philippos Paganis

1. The status of LGBT people in Greece.

Only in the very recent past has there been some advancement in the recognition and protection of the human rights of LGBT people in Greece, through the enactment of relative legislation, including the expansion of the civil union to same-sex couples, the law for legal gender recognition and the recognition of the right to fosterage for same-sex couples.

Expansion of the Civil Union (Law No. 4356/2015): in December 2015 the law for the civil union was expanded to cover same-sex couples. According to the new law, same-sex couples can form a legal agreement to regulate their cohabitation. Same-sex couples have equal rights with different-sex couples in terms of employment, public insurance and heritage issues. The right to parental care and adoption are not foreseen for same-sex couples, in contrast to different-sex couples. Civil Union is the only form of legal recognition for same-sex couples, since the Greek State does not recognize marriage between same-sex partners in any way. The right to adopt or have children through surrogacy/assistive reproductive procedures hasn't been vested for same sex couples.

Legal Gender Recognition (Law No. 4491/2017): in October 2017 Greece passed a new law for legal gender recognition. With this law, trans people over 17 years old can change their legal documents without the prerequisite of a psychiatric diagnosis or other medical interventions; underage people (15-16 years old) need the consent of their parents/legal guardians and the positive consultation of a multidisciplinary committee. The law also includes provision to ensure the person's privacy. However, there are several shortcomings; the procedure is judicial, which makes it time-consuming and costly, and doesn't include options beyond the gender binary. The person's name and gender cannot change in their children's birth certificates (for children born before the legal gender recognition). Furthermore, single status is required and access to the procedure is limited to people who have had their birth certificate issued in Greece, excluding trans refugees, migrants and Greek citizens who were born in another country.⁷

⁷ In 2018, Natasha a recognized refugee in Greece and transgender woman, with the support of her lawyer Aikaterini Georgiadou (from NGO Hellenic League for Human Rights), managed to change the name and gender on her official documents. The Greek court's decision for Natasha is considered "groundbreaking" with a potential international impact. According to Natasha's lawyer:

Foster care (Law No. 4538/2018): passed in May 2018, the Law makes provision for, among other things, the right to fosterage for same sex couples that are in a civil union.

Regarding hate crimes in Greece, the number of <u>recorded</u> of anti-LGBT hate crimes by the (Greek) Racist Violence Recording Network⁸ has decreased during the past two years but still, one out of two hate crimes recorded in Greece are anti-LGBT hate crimes. According to the RVRN:

"Although a specific study is needed to explain this decrease, it needs to be stressed that underreporting is being observed throughout Europe. As the RVRN has already pointed out, offering support to the victims of hate crimes has a positive impact on the reporting of such crimes" (RVRN, 2018 March 28:15).

In pursuit of the common objective, the RVRN: a) submits recommendations to the Greek authorities in compliance with Greek and international law on the protection of human rights; b) promotes the provision of information to the public and raises public awareness on combating racist violence; c) carries out consultations with various actors on special issues relating to racist violence; d) enhances collaboration with other actors in pursuit of combating racist violence; e) organizes and participates in training programmes held by civil society and other competent institutional bodies in relation to issues pertaining to the identification, recording, and combating of hate crimes.

(...)

The RVRN has been applying a strict methodology from the outset, recording incidents exclusively on the basis of interviews conducted with the victims. The victims' willingness to come forward is therefore key in terms of the number of incidents that are actually recorded. All members of the RVRN have adopted the consolidated recording form of the RVRN. Each RVRN organisation member appoints focal points to record the incidents, i.e. social workers, lawyers, or other professionals or volunteers, who are trained by the RVRN. Recording forms are completed anonymously and used exclusively by the RVRN for the purpose of combating racism and hate crimes" (in RVRN - Racist Violence Recording Network. 2018 March 28. "Annual Report 2017", p. 7-8. Retrieved from: http://rvrn.org/wp-content/uploads/2018/03/Report_2017eng.pdf).

Theofilopoulos, T., Serafeim, I., Moudatsou, M. and Farmakidis, K. "Greece: Heading in the Right Direction, but with a Long Road Ahead" Pp. 116-141 in Godzisz, P. & Viggiani, V. (eds.). 2018. Running through Hurdles: Obstacles in the Access to Justice for Victims of Anti-LGBTI Hate Crimes, Warsaw: Lambda Warsaw Association. Retrieved from: http://www.lgbthatecrime.eu/researchbook/2018%20Running%20through%20hurdles.pdf

[&]quot;This legally established decision of a Greek lower court interpreted the Greek law in light of the Geneva Convention, the International Covenant on Civil and Political Rights, and the Greek Constitution. Even though there is no decision by the European Court of Human Rights for such a serious human right, this decision shapes the international and European reality and our legal culture" (Karakoulaki, M. and Tosidis, D. 2018 July "Transgender refugees in Greece reclaim their dignity". Deutsche Welle. Retrieved from: https://www.dw.com/en/transgender-refugees-in-greece-reclaim-their-dignity/a-44551880).

[&]quot;The initiative for the establishment of the Racist Violence Recording Network was taken in mid-2011 by the Greek National Commission for Human Rights (GNCHR) and the Office of the UN High Commissioner for Refugees in Greece (UNHCR) on the basis of two major findings: a) the identified absence of an official and effective data collection system on racist violence and b) the need to coordinate organizations which recorded, on their own initiative, incidents of racist violence against people who sought their services. (...) Apart from the coordinators, the UNHCR and the GNCHR, the RVRN is comprised of 42 Non-Governmental Organizations and civil society actors, as well as the Greek Ombudsman and the Migrants' Integration Council of the Municipality of Athens, as observers.

^(...)

⁹ More information about underreporting of anti-LGBT hate crime in Greece can be found in:

Anti-LGBT hate crime in Greece						
Year	Number of anti-LGBT hate	Total number of hate	Percentage (%) of			
	crimes	crimes	anti-LGBT hate crime			
2015	185	273	67,76%			
2016	57	95	60%			
2017	47	102	46,07%			
Source: Racist Violence Recording Network www.rvrn.org						

During the same period, the number of hate crimes – including anti-LGBT hate crimes - recorded by the Hellenic Police increased. But RVRN explains that 40.76% of the total number of hate crimes recorded by the police also included cases of hate speech (RVRN 2018 March 28:20). As RVRN points out: "Hate speech does not fall within the traditional definition of racist crime and should therefore be distinguished from all other crimes, which are normally committed against specific victims on grounds of particular characteristics" (RVRN, 2018 March 28:20).

Anti-LGBT hate crime in Greece according to Hellenic Police				
Year	Number of anti-LGBT hate crimes	Total number of hate crimes recorded and investigated	Percentage (%) of anti-LGBT hate crime	
2015	15	80 potentially racially motivated incidents	18,75%	
2016	15	84 potentially racially motivated incidents	17,85%	
2017	41	184 potentially racially motivated incidents	22,28%	
Source: Data of the Hellenic Police published by Racist Violence Recording Network www.rvrn.org				

On the other hand, according to the same source:

"it is quite encouraging that there is an increase in the number of incidents where the police took charge *ex officio*, following a complaint or under the instructions of theprosecution authorities, as this is a clear indication of improvement in the authorities' responsiveness" (RVRN, 2018 March 28:20).

But, finally, "there are still certain behaviours or practices that prevent the victims from reporting their experiences, and these need to be dealt with promptly" (RVRN, 2018 March 28:20).¹⁰

¹⁰ For example, according to the RVRN:

[&]quot;In another (homophobic) incident, the victim and his partner (19 and 17 years old, respectively) were assaulted by a group of 6 people in a public square. An eye witness called an ambulance and notified the police. According to the victims, they were asked by the police officers who arrived at the scene to describe what had happened, but before they even had the chance to state that they wanted to file a complaint, one officer

2. LGBT people and issues in Greek media.

During the late 1970s and early 1980s, Greek LGBT activists tried to give voice to the marginalized Greek LGBT community, by creating Media that would focus on LGBT issues.

Just a few years after the fall of the Greek junta (1967-1974), the Liberation Movement of Greek Homosexuals¹¹ (AKOE) published the magazine *Amphi*, which was developed and directed by LGBT activist, historian of the Greek LGBT movement, writer, poet and translator, Loukas Theodoropoulos (Ioannidis 2013 February 2; *Llfo.gr* 2014 April 26). Another worth mentioning effort was the magazine *Kraximo*,¹² which was published by Paola Revenioti, trans woman and activist, during the 1980s and until the early 1990s, and also included texts by famous artists, poets and writers (Karouzakis 2008; Calvi 2013 January 18). Both of these magazines covered issues of the LGBT community and were a very bold movement for the time.

Nowadays, there is an important number of Greek LGBT focused Media, which give voice to LGBT people and issues. Some of them focus on specific groups within the LGBT spectrum, while others cover topics from the whole community. For example, *T-Zine* mostly focuses on Trans people, *LesbianGr* mostly focuses on lesbian women and *GayHellas.gr* mostly focuses on gay men, while *Antivirus Magazine* covers issues that are relevant to the whole LGBT community. But even the more specialized LGBT Media are not limited to their specific target groups and often refer to different sub-groups from the LGBT population, as well as cover important news that affect the whole community.

Beside these specialized Media, there is a great number of mainstream, popular media which are friendly towards LGBT people. These media portray LGBT people in a positive and not stereotypical way, they give space and time to LGBT people and issues, and they often adopt a clearly and openly supportive stance towards LGBT events and – most importantly – human rights of LGBT people. According to E.T.Ho.S. field research, some examples of such mainstream media are the newspaper and website *Efimerida ton Syntakton*, the free press and websites *Athens Voice* and *Lifo*, websites such as *Popaganda* and the Greek edition of *Vice*.

Unfortunately, there is also a dark side. There are numerous of Media – mainly newspapers and websites - controlled by or friendly towards extreme right or very conservative parties and ideas in general. Beside these "visible" enemies of equality and human rights, in

turned to the other and said "Come on, I don't see any serious harm here" and they both took off. The two victims were then taken to hospital, where they received first aid care, underwent medical examinations, had their injuries taken care of and were eventually released. One of the two victims stated that both the medical crew on the ambulance and the medical staff at the hospital had treated them very nicely. However, once again the RVRN established a poor response on the part of the authorities, in terms of encouraging the victims to report the incident (in this case, an assault by multiple persons), despite the fact that only light injuries were caused as a result" (RVRN, 2018 March 28: 20-21).

¹¹ Although "homosexual" is not an appropriate term to refer to gay people, it was the term originally used in the name of ΑΚΟΕ (Απελευθερωτικό Κίνημα Ομοφυλόφιλων Ελλάδος).

¹² A Greek word for "gay bashing".

numerous cases Media professionals or hosted guests of mainstream media have openly expressed homophobic, transphobic, biphobic ideas and in some case even anti-LGBT hate speech. In almost all of these cases, no one was punished by the National Council for Radio and Television (NCRTV) and/or the Greek Justice System.¹³

One of the few exceptions was the Plevris/Zafeiropoulos case in 2011, when the author - well known for his extreme right views and political activities -Kostas Plevris together with the former member of the neo-Nazi party Golden Dawn and publisher, Dimitris Zafeiropoulos, were brought to trial because of a homophobic memo called "Homosexuality is perversion". This memo was written by Plevris and published in 2009 by Zafeiropoulos in *Eleftheros Kosmos*, an extreme right newspaper of the latter (*Tvxs.gr* 2011 November 4; Antonopoulos 2011 November 15). Claimants were LGBT activists and human rights defenders (*Tvxs.gr* 2011 November 4; Antonopoulos 2011 November 15). Finally, both were sentenced to a few months imprisonment with suspension for vilification (Sotiropoulos 2011 November 27).

In 2018, Dimos Verykios, a well-known journalist working in one of the biggest media networks in Greece, was convicted for infringement of the personality of the author – also openly gay – Auguste Corteau, after making homophobic comments against him in 2014, during his radio show in *Alpha Station 98,9* (*Huffington Post* 2018 April 3; Sotiropoulos 2018 April 4).

In none of the above two mentioned cases was the Law on hate crime and hate speech enforced.¹⁴ It should be highlighted, however, that in the court's decision of the Verykios/Corteau case it was referred that the plaintiff was a member of a "social group" whose "erotic choices" are totally respected under the Greek constitution (Sotiropoulos 2018 April 4).

Finally, in 2018, a Greek media professional was forced to compensate a Greek actor – and openly gay man – after insulting him about his sexual orientation during a radio show. In December 2017, well known journalist, TV Presenter and Radio Showman George Liagas, organized – in his Radio Show - an on-air prank by phone against an unsuspected man (*Lifo. gr* 2017 December 20; Theodorou 2017 December 20; Ksinopoulos 2017 December 29). Liagas pretended to be a gay man – in a stereotypical and offensive way – and when the track driver asked for his name, Liagas introduced himself as "Spyros Bibilas", a well-known Greek actor who is openly gay (*Lifo.gr* 2017 December 20; Theodorou 2017 December 20; Ksinopoulos 2017 December 29). Bibilas felt offended and filed a lawsuit against Liagas in the civil court of law (*Lifo.gr* 2017 December 20; Theodorou 2017 December 20; Ksinopoulos 2017 December 29). Finally, Liagas was forced to compensate Bibilas with the amount of 27000€, for "moral damage" (Vamvakoula 2018 February 13).

¹³ The Racist Crime Watch of the Greek Helsinki Monitor as well as the Observatory against Fascism and Racist Speech in the Media of the Educational Foundation of the Journalists' Union of Athens Daily Newspapers (ESIEA) have recorded and reported many cases of racist, homophobic, transphobic, anti-Semitic etc. Media content and/or hate speech by Media: newspapers and websites MAKELIO («Μακελειό»), Eleftheri Ora ("Ελεύθερη Ώρα"), "Dimokratia" ("Δημοκρατία") are some of these Media.

¹⁴ Vasilis Sotiropoulos – who was one of the lawyers who handled these cases (and won)– clarified to us (contact 15/11/2018) that in Plevris/Zafeiropoulos case, the "anti-racist" Law 927/179 which was in force at the time did not include sexual orientation as a protected characteristic. Regarding the Verykios/Corteau case, Sotiropoulos pointed out that the Law 4285/2014 (Amendment of Law 927/1979) which includes sexual orientation as a protected characteristic had not been voted yet when the incident happened and Corteau appealed to Justice (2014). Furthermore, Corteau filed a lawsuit against Verykios in the civil court of law.

3. National legal framework on hate speech, hate crime and discrimination.

Hate crime and hate speech

Law No. 4285/2014, Articles 1-5, Amendment of Law 927/1979: Imprisonment and fines up to 20.000 euro are possible penalties for people "who publicly incite, provoke, or stir, either orally or through the press, the Internet, or any other means, acts of violence or hatred against a person or group of persons or a member of such a group defined by reference to (...) sexual orientation, gender identity (...)" — among other protected characteristics — but only "in a manner that endangers the public order and exposes the life, physical integrity, and freedom of persons defined above to danger". The court has also the right to impose deprivation of political rights 1-5 years to those who are imprisoned for violating this Law. If the perpetrator is a public official or employee, harsher penalties are applied.

Furthermore, similar penalties face people who "intentionally, either orally, through the press, online, or by any other means or methods, condone, trivialize, or deny the existence or seriousness of the crimes of genocide, war crimes, crimes against humanity, the Holocaust, or Nazi crimes, when those crimes have been established by international court decisions or the Greek Parliament, if this conduct is directed against a group of persons or a member of such a group defined by (...) sexual orientation, or gender identity and in a manner that is likely to incite hatred or violence or is of a threatening or insulting nature against such a group or one of its members".

Moreover, penalties may be imposed to legal entities or groups of persons, when a person violates this Law acting alone or as a member of this legal entity or group of persons, for the benefit of this entity or group.

Finally, violations of this Law are investigated and prosecuted ex officio; therefore, the victim(s) do not have to pay for a fee of 100 euro any more, as they used to.

Law No. 4356/2015, Article 21, Amendment of Article 81A Criminal Code: Harsher penalties are imposed for crimes committed if the motive of the perpetrator(s) was prejudice against a person's (or a group of persons) characteristic(s). The protected characteristics include sexual orientation, gender identity and sex characteristics.

Law No. 4356/2015, Article 29, Add Article 361B to the Criminal Code: According to this Article of the Criminal Code, the exclusion of people from goods or services or the announcement of such exclusion of people out of contempt for their sexual orientation or gender identity – among other protected characteristics – is punished with –at least – 3

months imprisonment and –at least – 1500 euro fine. If two or more persons are involved in this criminal act, then penalties become harsher.

Discrimination

Law N.4443/2016, Articles 1-24: Sexual orientation, gender identity and sex characteristics are included in the protected characteristics. Discrimination on the grounds of these characteristics – among others – is forbidden in the employment sector, both private and public.

The Law also makes a clear reference to "supposed features": the motivation of the perpetrator is the one that matters and not the "actual"/"real" feature of the victim. The perpetrator is the one who has to prove that they didn't discriminate.

Furthermore, discrimination victims are protected by the Law from any kind of retaliation.

But the Law fails to include a clear reference to sexual orientation, gender identity and sex characteristics as protected characteristics against discrimination in social protection, social benefits, tax reliefs, education, and housing. But in another Article of the same law, the legislator includes the prohibition of discrimination on the grounds of sexual orientation, gender identity and sex characteristics "during sales of goods or provision of services to the public".

4. The role of the state.

During the last decade, the Greek State has made some steps backwards as well as forward in terms of promoting an inclusive and non-discriminatory Media environment. Some of the main "ups" and "downs" are listed below:

• In 2003, NCRTV decided to fine TV-station Mega Channel 100.000€, because during a TV-Series, two men kissed, thus the channel violated the code of conduct (*In.gr* 2006 November 28). The NCRTV on the other hand never reacted to anti-LGBT hate speech in Greek TV. In 2006, the Supreme Court of Greece cancelled the fine, because, according to its decision, there was no pornographic or profanity during the scene and the TV-characters only expressed their sexual orientation which is totally respected – as well as its expression through art - under the Constitution (*In.gr* 2006 November 28). Also, the Supreme Court stated that during the scene "the reality of the society" was presented which is "connected with a social group" whose "erotic choices" are "totally respected" under the Greek constitution (Sotiropoulos 2018 April 4).

- In 2010, NCRTV fined TV-station Star Channel 20.000€, for not changing the according to the Council incorrect marking "parental consent is desired" of the infotainment TV-Show "Fotis & Maria Live", while hosting the transgender activist, actress and writer Betty Vakalidou (enet.gr 2010 April 27). Panos Koutras director of the internationally successful movies "Strella" and "Straight Story", in which the major characters are LGBT condemned the Council for adopting a homophobic and transphobic stance and violating human rights (Tvxs.gr 2010 April 28).
- In 2012, after a relevant request by the Programme Director of the Hellenic Broadcasting Corporation (*ERT*), a scene from the foreign production "Downton Abbey", where two men are kissing, was removed (*iefimerida.gr* 2012 October 16; *TANEA* 2012 October 16). According to the Programme Director Kostas Spyropoulos, the scene was removed because of the (early) time the TV Series was aired, but would be included when the episode aired in a more appropriate time zone at night (*iefimerida.gr* 2012 October 16; *TANEA* 2012 October 16).
- In 2016, NCRTV decided not to allow TV channels of national broadcasting range to broadcast the TV Spot of the psychological helpline for LGBTQI+ people 11528 (11528-Dipla sou 2016 June 6). The Council said that this issue would be discussed and a final decision would be made in October 2016 (11528-Dipla sou 2016 June 6). According to the NGOS responsible for the project OLKE, Positive Voice, Athens Pride, Thessaloniki Pride "the spot doesn't have any inappropriate characteristics it is the spot's subject itself that annoys" (11528-Dipla sou 2016 June 6).
- In 2016, ERT decided to sponsor Athens Pride, Thessaloniki Pride as well as the helpline "11528 Dipla sou" (Antivirus Magazine 2016 May 27).
- In 2018, according to the *Joint Ministerial Decision of the Ministry of Digital Policy, Telecommunications* and Media and the Ministry of Health, the criteria for the approval of media spots with social messages were expanded to include equality and non-discrimination messages on the grounds of sexual orientation, gender identity and sex characteristics (OLKE Lesbian & Gay Community of Greece et al. 2018 June 7).
- In 2018, TV channel ART was referred to the NCRTV for violating provisions of the radio-television law and Human rights. The presenter of the show in question, Giorgos Karatzaferis, initiated a viewer poll: "Are you in favour of the idolisation of would-be robber, gay and HIV-positive" referring to the brutal murder of Zak Kostopoulos, queer activist, HIV positive and human rights defender, in the centre of Athens. The presenter

also expressed anti-LGBT speech during the show (*e-tetradio* 2018 October 18). A month later, NCRTV fined *ART* Channel 150.000€ for this "poll" and also demanded the publication of this decision by the Channel itself (Protagon Team 2018 November 29).

In March 2019, the Greek Parliament voted the Law No 4604/2019. This initial draft Law was submitted by the Ministry of Interior. Law No 4604/2019 concerns - among other things - the promotion of gender equality and the prevention and combating of gender based violence. In Paragraph 1 of Article 24 "Measures to promote gender equality in the media, advertising and the responsibilities of the National Council for Radio and Television" provides that "in codes of conduct drawn up by public service broadcasters, in self-employment contracts that may be concluded by them and in the self-regulatory rules that are established and perhaps approved by the competent authorities, regulations aiming at the realization of the equal treatment principle and the elimination of stereotypes on the grounds of gender, gender identity and sexual orientation are mandatorily adopted in the field in which they operate". Despite the explicit reference to gender identity and sexual orientation, sex characteristics should have been explicitly mentioned to ensure the inclusion and protection of intersex people.

In the same paragraph, although the "equal representation of the female gender in all areas of the country's social, economic, cultural and political life" by state and private television and radio stations, and the inclusion of thematic issues "contributing to the promotion of Gender Equality, the identification and elimination of discrimination, and the fight against stereotypes" are foreseen, there is no explicit reference to gender identity and sexual orientation. In addition, in the same paragraph, although the prohibition of speech "involving discrimination on the grounds of gender, as well as any other reference with a relevant verbal or other behaviour" when "reproducing advertising, television or radio messages" are also foreseen, the explicit inclusion of homophobic / biphobic / transphobic speech and content would be advisable.

However, in the second paragraph of Article 24, the legislator provides that the NCRTV "issues directives on integrating the principle of gender equality and non-discrimination on the grounds of gender, gender identity and sexual orientation into the broadcasted programs of radio and TV broadcasters, regardless of their means of transmission, and in particular on applying the provisions of paragraph 1".

The following paragraphs of the same article highlight the capability of the NCRTV to impose sanctions in the event of a breach of the above provisions as well as the obligation of the Council to mandatorily include in its Annual Progress Report a "chapter on the

monitoring of the implementation of the current law's provisions by the broadcasters, and to issue relevant directives and recommendations for that purpose".

Finally, the decisions of the NCRTV regarding the TV spot of Athens Pride in the recent past are an indicative example of these "ups" and "downs": in 2015 the NCRTV approved the airing of the TV spot for Athens Pride as a "social message" (Athens Pride 2015 June 07); this was the first time a spot focusing on LGBT issues was recognized as a social message and was aired by TV and radio stations. In 2016 the NCRTV didn't approve the TV spot for Athens Pride - whose theme was "Men/Women are made not born" - stating that "it does not include a social message but an assertion" and that "legal gender recognition doesn't exist in many countries and there are many people that believe that you are born a man or a woman, so the message can leave people with questions" (*Creta live* 2016 June 03).

The following year the NCRTV approved Athens Pride's spot, which was aired as a social message (Athens Pride 2017 May 25). In 2018, the decision of the NCRTV was positive but the airing of the spot was limited to certain hours since —according to the NCRTV - "the phrasing and presentation of the messages is done in a way that can create questions and confusion to people under fifteen years old, as to what is the real meaning of the things that are being said" (Athens Pride 2018 June 01).

5. Good practices.

Besides the above mentioned decision of *ERT* to sponsor LGBT events as Athens Pride and the helpline "11528", some of the good practices in becoming an LGBT ally adopted by Greek mainstream Media include the support and/or involvement in projects with similar features and objectives with that of E.T.HO.S. Project.

Examples include seminars about homophobia and transphobia focused on journalists, organized by the Greek Network of "Processwork Hub" and the Social Theatre Group "Amate Performance", with the support of the Journalists' Union of the Athens Daily Newspapers – ESIEA (ESIEA 2014 October 21), one of the major Media professional unions in Greece. More recently, under European (REC 2014-2020) project "Respect Words", 15 ERT organized seminars for journalists on combating hate speech (Alexopoulos 2017 April 20). Another example is European (REC 2014-2020) project "DIVERCITY: Preventing and combating homo- and transphobia in small and medium cities across Europe" 16 under which

¹⁵ Learn more here: www.respectwords.org

¹⁶ Learn more here: www.divercity.ub.edu

seminars for journalists and bloggers about LGBT issues were organized (KMOP 2017 July 10; Municipality of Neapolis – Sykies 2017 November 27).

ESIEA has also expressed its interest for promoting LGBT human rights by hosting events organized by Colour Youth during the International Day Against Homophobia, Transphobia, Biphobia (17 May) (Colour Youth 2015 May 17; Colour Youth 2016 May 17; Colour Youth 2017 May 8). In 2014, the Educational Foundation of ESIEA founded the Observatory against Fascism and Racist Speech in the Media, whose purposes include reporting and recording incidents of fascist and racist speech in the media, and organizing awareness campaigns for violent neo-Nazi activities that target media professionals and their unions, as well as other democratic, social organizations and activists (ESIEA 2014 May 4).

Although ESIEA's Code of Professional Ethics and Social Responsibility doesn't include LGBT issues, in November 2016 Greece's Online Publishers Association (ENED) presented the Code of Ethics for Digital Media which includes a chapter named "Discrimination based on race, skin colour, religion, gender and sexual orientation", where issues of sexual orientation and gender identity are mentioned and good practices for representing LGBT issues and people are proposed (ENED N.d.; *Ert.gr* 2016 November 30).

In 2016, the Journalists' Union of Macedonia & Thrace Daily Newspapers (ESHEM-Th) created the "Chapter of Idomeni" Network in order to develop an Anti-Racist Code of Conduct for Greek Journalists (ESHEM-Th 2016 May 12). Members of this Network are journalists, academics, as well as members and representatives of Information and/or Human Rights Organizations. Within the framework of this Network, an Information Observatory was created to record how Media deal with and cover issues related to beneficiaries of international protection (refugees, asylum seekers, trafficking victims, migrants) and other disadvantaged social groups (ESHEM-Th 2016 May 12). Training Workshops for Media professionals were also organized (ESHEM-Th 2016 October 14).

In 2018, the Research Centre for Gender Equality (KETHI), during the implementation of the Project "Preventing and combating sexism and discrimination on gender identity and sexual orientation issues" or ganized Training Workshops for journalists and Media professionals,

¹⁷ Other partners of this Network are the UNHCR, the Department of Journalism and Mass Media of the Aristotle University of Thessaloniki, the Laboratory for the Peaceful Journalism of the Aristotle University of Thessaloniki, the Hellenic Union for Rights and Freedoms Individuals, independent personalities, regional media journalists. The Network is also supported by the European Federation of Journalists (EFJ), the Organization for Security and Cooperation in Europe, the "Charter of Rome" and the Osservatorio peri Balcani e il Caucaso (OBC).

¹⁸ Learn more here: <u>www.kethi.gr/program/prolipsi-ke-katapolemisi-tou-sexismo/</u>

with the support of ESIEA, ESHEM-Th, the Periodical and Electronic Press Union (ESPIT) and Channel 3 of *ERT* (*ERT 3*) (KETHI 2018 May 30).

Furthermore, some private mainstream and local Media have sponsored LGBT prides in Greece: *Efimerida ton Syntakton* (newspaper and website), *Lifo* (newspaper and website), *Vice.gr* (website), *E-radio* (Hellenic Radio Portal), *Mad* (TV Channel), *Polis Free Press* (Thessaloniki free press magazine), *Shedia* (Athens and Thessaloniki street paper), *TV 100* (Thessaloniki local TV Channel), *V-FM 91,1* (Thessaloniki local radio station). Finally, in 2018, *ANT1* channel, one of the country's oldest mainstream TV Channels, launched the "We are one" campaign to promote its Programme for the new TV-season (*Antenna.gr* August 30 2018). A couple of two men, a couple of two women, and two men with their child, are starring at the campaign's TV-spot (*Antenna.gr* August 30 2018). All of them are portrayed as ordinary couples next to a cis-straight couple.

Responding to the public discourse around Zak Kostopoulos' murder in October 2018, more than 260 journalist and photographers - among which five unions' representatives and board members of ESIEA and ESPIT - signed a statement calling their colleagues to cover Zak's death abiding by the code of conduct, with respect, investigating carefully and with skepticism all information coming from the authorities. The statement also calls the board of ESIEA to take all measures needed to ensure that the case is covered in a way that will protect the dignity of media. The statement mentions: "We are extremely worried about phenomena of social cannibalism that appear both in the videos that are circulated and in the public discourse. [...] Our repulsion is even greater as we realize that a great part of Media reproduces and contributes in this cannibalism [...]" (Sto Kokkino 2018 October 18).

6. Conclusion and recommendations.

It should be highlighted that during the last three years there have been some major positive developments regarding the rights of LGBT people in Greece, such as the extension of civil union to same-sex couples and the legal gender recognition (see section "The status of LGBT people in Greece"). Moreover, during the last decade, the Greek LGBT community has a more active role in promoting LGBT rights and issues: new LGBT NGOs were founded, LGBT prides are organized in more Greek cities and more LGBT focused projects are being implemented.

Thus, LGBT people and issues have become more visible in the country and some of the mainstream Media are trying to adapt to this new era and reach out to new audiences.

Some of the mainstream Media - as well as Media Professional Unions - also support and/ or become involved in Projects which focus on combating hate speech, racism, xenophobia and homo/trans/bi-phobia by and through the Media. Others also support major LGBT events such as Pride Festivals. Despite the fact that economic profits and "branding" (creating a general good reputation among citizens/consumers) may have been one of the major motivations behind such practices on behalf of mainstream Media, their positive impact to the promotion of an inclusive and non-discriminatory environment cannot be doubted.

Still, there is a lot more to be done, as anti-LGBT discourse and (re)production of anti-LGBT stereotypes/prejudices, by and through Greek Media is still a widespread phenomenon. Some of the key recommendations include:

- Introduction of Human Rights courses in all Media Schools curricula that will also cover LGBT issues (e.g. basic terminology, legal framework, good practices).
- Continuous training and awareness events regarding hate speech, stereotypes/prejudices
 and appropriate and non-abusive or discriminatory reporting for Media professionals
 supported and/or organized by the responsible Ministry, Media Professionals Unions
 and/or Human Rights organizations.
- Penalties for Media that violate the Code of Conduct and the Greek Law regarding hate speech and discrimination.
- Awareness raising by LGBT organizations targeted to mainstream Media in order to increase (positive) visibility and inclusion of LGBT people and issues in the latters' content, as well as support for LGBT events and projects.
- Dissemination of educational, information and awareness material of LGBT as well as other Human Rights organizations to all members of Media Professional Unions.
- Creation and maintenance of a "cordon sanitaire" by media against hate groups and hate speech in general.

7. Contact information.

LGBT Media in Greece:

• 10% Magazine

E-mail: info@10percent.gr
Website: www.10percent.gr

• Antivirus Magazine

E-mail: info@avmag.gr
Website: www.avmag.gr

• Gayguide.gr

E-mail: info@gayguide.gr Website: www.gayguide.gr

• GayHellas.gr

E-mail: office@gayhellas.gr Website: www.gayhellas.gr

• LesbianGr

E-mail: info@lesbian.gr Website: www.lesbian.gr

• T-ZINE

E-mail: tzine2016@gmail.com
Website: www.t-zine.gr

Feminist media in Greece:

Kamena Soutien

Website: www.kamenasoutien.com

To Mov

E-mail: info@tomov.gr
Website: www.tomov.gr

LGBT Organizations in Greece:

• Athens Pride (Athens)

Tel: (+30) 6974187383

E-mail: contact@athenspride.eu
Website: www.athenspride.eu

• Colour Youth -Athens LGBTQ Youth Community (Athens)

Tel: (+30) 6945583395

E-mail: info@colouryouth.gr
Website: www.colouryouth.gr

Greek LGBT PwD (Athens)

Email: greeklgbtdisabled@gmail.com

Facebook Page: www.facebook.com/loatamea/

• Greek Transgender Support Association (Athens)

Tel: (+30) 210 9210697

E-mail: transgender.support.association@gmail.com

Website: <u>www.transgender-association.gr</u>

• LGBTQI+ Crete Pride / HerPride2018

E-mail: cretepride@gmail.com / prideher2018@gmail.com / prideher2018@gmail.com / prideher2018@gmail.com / prideher2018@gmail.com <a href="mailto:prideher2018@gmailto:prideher2

Website: cretepride.blogspot.com / herpride2018.wordpress.com

OLKE - Gay and Lesbian Community of Greece (Athens)

Tel: (+30) 693 147 1567

E-mail: info.olke@gmail.com
Website: www.olkegr.blogspot.gr

Orlando LGBT: Mental Health beyond the Stigma (Athens)

E-mail: contact@orlandolgbt.gr
Website: www.orlandolgbt.gr

• Rainbow Families (Athens)

E-mail: <u>ouraniotoksofamilies@gmail.com</u> Website: <u>www.rainbowfamiliesgreece.com</u>

• Rainbow School (Athens)

Tel: (+30) 693 1471 567

E-mail: info@rainbowschool.gr
Website: www.rainbowschool.gr

• Patras Pride (Patra)

E-mail: pridepatras@gmail.com

Website: www.patraspride.blogspot.com

• **Proud Parents** (Athens)

Tel: (+30) 6977839037

E-mail: <u>proudparentsgreece@gmail.com</u>

Facebook Page: <u>www.facebook.com/proudparentsgreece</u>

• **Proud Seniors Greece** (Athens)

Tel: (+30) 6973355124

E-mail: proudseniorsgreece@gmail.com

Facebook Page: https://el-gr.facebook.com/proudseniorsgreece/

• Thessaloniki Pride (Thessaloniki)

Tel: (+30) 231 1289320

E-mail: contact@thessalonikipride.com
Website: www.thessalonikipride.com

National Equality Body:

• Greek Ombudsman

Tel: (+30) 2131306600

Online Complaint Submission: https://www.synigoros.gr/?i=submission-system.el.upo

bolianaforas

Website: www.synigoros.gr

National Body for the supervision and regulation of the radio/television market:

National Council for Radio and Television

Tel: (+30) 213 1502300 / (+30) 213 1502390

E-mail: ncrtv@otenet.gr Website: www.esr.gr

Gender Equality Institutions and Organizations in Greece:

Centre of Gender Studies of the Department of Social Policy at Panteion University (Athens)

Tel: (+30) 210 9201516

E-mail: genderpanteion@gmail.com / genderstudies@panteion.gr

Website: www.genderstudies-panteion.gr

• General Secretariat for Gender Equality (Athens)

Tel: (+30) 2131511102-103 E-mail: info@isotita.gr Website: www.isotita.gr

• Diotima - Centre for Research on Women's Issues (Athens)

Tel: (+30) 210 3244380 E-mail: diotima@otenet.gr Website: http://diotima.org.gr/

• KETHI - Research Centre for Gender Equality (Athens)

Tel: (+30) 2103898000 E-mail: kethi@kethi.gr Website: www.kethi.gr

Police Services:

• Cyber Crime Unit of the Hellenic Police

The responsibilities of the Unit's Department of Internet Protection of Minors and Digital Investigation include the investigation of racist and xenophobic content on the internet.

Tel: 11188 (24hr)

E-mail: ccu@cybercrimeunit.gov.gr

Website: www.cyberalert.gr/feelsafe

• Police Service for Combating Racist Violence

Tel: 11414 (24hr)

Online Complaint Submission:

http://www.astynomia.gr/index.php?option=ozo_content&&perform=view&id=18224&Itemid=0&lang=

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Lithuania: Expression restained: LGBT media in a hostile environment.

Eglė Kuktoraitė

1. The status of LGBT people in Lithuania.

In the period between 2012 and 2018 the Lithuanian authorities did not seek to comprehensively address the tendencies of social, legal and institutional discrimination on the grounds of sexual orientation and (or) gender identity. On the contrary, certain aspects indicate that respect for human rights of LGBT people in Lithuania is deteriorating.

First of all, the Law on the Protection of Minors against the Detrimental Effect of Public Information has been applied on three different occasions with the view of censoring LGBT related public information. The Lithuanian authorities claim that this discriminatory interference with the right to freedom of expression is necessary to protect the "emotional, spiritual, psychological development and health of the minors", thus creating a chilling effect on talking publicly about LGBT issues in the Lithuanian society.

Secondly, Lithuanian remains one of a few jurisdictions in the European Union without any legal recognition of same-sex relationships. The Lithuanian Parliament has not only dismissed a bill on introducing gender-neutral registered partnerships, but now is considering a legislative motion on "cohabitation agreements" which would strip same-sex couples of the family status all together. The Article 38 of the Constitution explicitly states that "[m] arriage shall be concluded upon the free mutual consent of man and woman", while the Article 3.339 of the Civil Code foresees a separate law that should lay down the procedure for registering a partnership between a man and a woman. Despite the fact that the Civil Code was adopted in 2000, the law on registered partnerships (for different-sex couples) has never been adopted.

In 2011 the Lithuanian Constitutional Court provided a progressive interpretation of the constitutional concept of "family life" by indicating that "[it] does not mean that [...] the Constitution does not protect and defend families other than those founded on the basis of marriage, interalia, the relationship of a man and a woman living together without concluding a marriage, which is based on the permanent bonds of emotional affection, reciprocal understanding, responsibility, respect, shared upbringing of the children and similar ones, as well as on the voluntary determination to take on certain rights and responsibilities [...]". While the Constitutional Court did not mention same-sex families in its judgment explicitly,

the legal reading of the judgment indicate that same-sex families potentially fall under the ambit of the constitutional concept of "family life".

Thirdly, the Lithuanian authorities have systematically failed in investigating reported instances of hate speech and hate crimes on grounds of sexual orientation and (or) gender identity. In some cases the law enforcement officials simply refused to start pretrial investigations, thus leaving the members of the local LGBT community without any possibility for legal redress.

Fourthly, Lithuania remains one of a few European jurisdictions without any administrative procedures of legal gender recognition and gender reassignment procedure. As gender identity is not covered by Lithuanian anti-discrimination and hate crime legislation, transgender people remain disproportionately affected by instances of discrimination, harassment and violence. Since April, 2017 as a result of strategic litigation efforts the right to legal gender recognition is granted by the national courts without the sterilization requirement, i.e. based solely on mental diagnosis of 'gender dysphoria' and self-identification.

Finally, in the period between 2012 and 2018 the Lithuanian Parliament has considered nine openly homophobic and (or) transphobic legislative initiatives, effectively seeking to limit the rights and freedoms of LGBT people.¹⁹ The vivid public debate around these legislative proposals has negatively impacted the social climate for LGBT people in Lithuania, because it seemed as if fundamental rights and freedoms of LGBT people could be simply revoked on a whim of political opportunism or discriminatory animus.

2. LGBT people and issues in Lithuanian media.

Close cooperation between the mass media and LGBT organizations can help to promote democratic processes and raise awareness on LGBT issues – something that is very important for many European countries, which have only recently embraced democratic values and aspired to create societies that are more open.

¹⁹ A list of the homophobic and (or) transphobic legislative initiatives pending before the Lithuanian Parliament as of 1 June 2018:

⁽a) The amendment to the Civil Code No. XIIP-17 seeks to place a total ban on gender reassignment surgeries. The bill was included on the Parliament's agenda on 23 May 2013 and has not been considered since then.

⁽b) The amendment to the Criminal Code No. XIIP-687 seeks to establish that the criticism of homosexuality and attempts to change someone's sexual orientation would not qualify as discrimination or harassment on the ground of sexual orientation. The bill was included on the Parliament's agenda on 12 September 2013. It passed the first hearing on 19 June 2014. The Parliamentary Committee on Education, Science and Culture

Against this international framework, however, a rise of a number of anti-LGBT propaganda laws, legislative initiatives aimed at limiting representation of LGBT people in the public sphere, can be observed. Lithuania is amongst countries where anti-LGBT propaganda law is in place, severely limiting possibilities to gather, organize and take part in public and community events, and access information. Therefore, the anti-LGBT propaganda law is used to further discrimination, with chilling effects on LGBT people, mostly under the pretext of protecting the wellbeing and healthy development of children.

Article 4.2.16 of the Law on the Protection of Minors against the Detrimental Effect of Public Information stipulates that "public information shall be attributed to information which has a detrimental effect on minors [...] which expresses contempt for family values, encourages the concept of entry into a marriage and creation of a family other than stipulated in the Constitution of the Republic of Lithuania and the Civil Code of the Republic of Lithuania". In the period between 2013 and 2014 the provision in question was applied on three different occasions with the view of interfering with the right to freedom of expression of LGBT persons.

temporarily postponed the adoption of the bill on 16 December 2014 by returning the bill to the initiators for "further improvements".

⁽c) The amendment to the Law on Public Meetings No. XIIP-940, proposes that the organizers of the public assemblies cover all expenses in relation to ensuring safety and public order in the course of an event. This legislative motion was introduced as a retaliatory measure for the successfully executed Baltic Pride 2013 March for Equality. The Parliament has not yet voted on the inclusion of this bill to its agenda.

⁽d) The amendment to the Law on the Fundamentals of Protection of the Rights of the Child No. XIIP-473 (together with the amendment to the Civil Code No. XIIP-472) stipulates that "every child has the natural right to a father and a mother, emanating from sex differences and mutual compatibility between motherhood and fatherhood". The bill was included on the Parliament's agenda on 21 May 2013.

⁽e) The amendment to the Law on the Fundamentals of Protection of the Rights of the Child No. XIIP-1469(2) seeks to establish that "it is forbidden for same-sex couples to adopt citizens of the Republic of Lithuania." The bill was included on the Parliament's agenda on 15 September 2015.

⁽f) The amendment to the Article 38 of the Constitution No. XIIP-1217(2) seeks to redefine the constitutionally protected concept of "family life" as emanating from a traditional marriage between a man and a woman, and stipulates that family arises from motherhood and fatherhood. The bill was included on the Parliament's agenda on 10 December 2013. The amendment was accepted for the Parliament's consideration on 28 June 2016.

⁽g) The amendment to the Code of Administrative Violations No. XIP-4490(3) introduces administrative liability for any public defiance of the constitutionally established "family values". By carrying out public speeches, demonstrating posters, slogans and audiovisual materials, as well as organizing public events such as gay prides and other kind of actions, one would thus act against the law. The bill was included on the Parliament's agenda on 21 January 2014. The Parliament postponed the final adoption phase on 13 March 2014, and once again on 12 November 2015.

⁽h) The amendment to the Civil Code No. XIIIP-750 seeks to introduce an "agreement for cohabitation" that would allow two or more cohabitants to realize certain property rights without an intention to create family relations. The proponents of this bill claim that the "agreement for cohabitation" would be suitable form of legal recognition for same-sex couples. However, it effectively prevents same-sex couples from enjoying the status of "family members". The bill was included on the Parliament's agenda on 30 May 2017.

⁽i) The amendment to the Civil Code No. XIIIP-1327 places a total ban on both medical and legal gender reassignment in Lithuania. The bill was registered in the Parliament on 10 November 2017, but the Parliament has not deliberated on the proposal yet.

In May 2013, the National LGBT rights organization LGL approached the national broadcaster LRT with an inquiry about the possibility of broadcasting promotional videos for the *Baltic Pride* 2013 on national television. On 4 July 2013, the national broadcaster indicated that the videos can be broadcasted only during the restricted timeframes and marked with corresponding age indexes.

In 2014, two Lithuanian commercial channels refused to air a video clip, produced by LGL, which was a part of a social campaign "Change It".

In 2014, the Lithuanian publisher of "Amber Heart" ("Gintarinė širdis"), a children's fairy-tale book featuring two stories with gay protagonists, removed the book from circulation on the grounds of an opinion given by the Inspector of Journalist Ethics.

The application of this law with the view of censoring LGBT related public information has caused a chilling effect among the online media outlets, as they have started branding news items pertaining to LGBT issues as suitable only for adults. It can be concluded that the limited positive information about LGBT issues in the public sphere further reinforces a socially hostile atmosphere for LGBT people in Lithuania.

There are many TV shows and films including LGBT roles shown on Lithuanian televisions. However, these shows are not created in Lithuania. There are no Lithuanian TV shows including an LGBT role.

3. National legal framework on hate speech, hate crime and discrimination.

The general prohibition of discrimination on the ground of sexual orientation in the Lithuanian legal system is established by the Law on Equal Opportunities, which transposes the Employment Equality Framework Directive 2000/78/EC. The scope of the national equality legislation is much wider than mandated by the EU Directive, i.e. discrimination on the ground of sexual orientation is prohibited not only in the sphere of employment and occupation but also in the spheres of provision of goods and services, education and in the course of actions by all public authorities.

The prohibition of discrimination on the ground of sexual orientation is also established in the Labor Code (Article 2.1, Article 26, Article 59.2 and Article 75.1.2), the Law on the Protection of Minors against the Detrimental Effect of Public Information (Article 4.2.12) and the Law on Provision of Information to the Public (Article 19.1.3). Article 170 of the Criminal Code prohibits incitement to hatred based on sexual orientation (i.e. prohibition of

hate speech), while Article 60.12.1 qualifies acts committed in order to express hatred on the ground of sexual orientation as an aggravating circumstance within the framework of criminal proceedings (i.e. prohibition of hate crimes).

While sexual orientation is a protected ground under the Lithuanian legislation, the same does not apply to the ground of gender identity and (or) gender expression. To put it in other words, discrimination and hate-motivated incidents against transgender of gender non-conforming people would not technically qualify as punishable offences in Lithuania. Equally, the Lithuanian legislation does not cover intersex people, as it does not acknowledge sex characteristics or intersex status as a protected ground.

Despite the fact that Lithuanian legislation, in theory, provides for quite extensive legal guarantees against discrimination on the ground of sexual orientation, its implementation in practice is, at best, described as ineffective. Instances of discrimination on the ground of sexual orientation remain highly underreported. The Office of the Equal Opportunities Ombudsperson, i.e. the public body responsible for the implementation of the Law on Equal Opportunities, received four complaints regarding alleged instances of discrimination on the ground of sexual orientation in 2009, three in 2010, four in 2011, two in 2012, none in 2013 and four in 2014. Taking into account the widespread phenomenon of discrimination on the ground of sexual orientation indicated by international surveys and opinion polls, it can be concluded that the national equality body is not perceived as an effective remedy with the view of addressing experienced injustices.

According to data collected by an anonymous survey carried out by LGL in September 2016, more than half (54%) of LGBT people in Lithuania had faced hate crimes and/or expressions of hate speech in the last 12 months. Of these respondents, just 13% had reported the incidents to law enforcement institutions, giving the impression of an inherent "latency" to hate crimes and hate speech committed against members of the LGBT community.

4. The role of the state.

Characterized by the rapid accession to the European Union following the restoration of independence as well as a swift recovery from the 2008 economic crisis resulting in the development of one of the fastest internet speed, the development of digital media had a significant impact on journalism and democracy in the 21st century Lithuania. Internet penetration skyrocketed in subscriptions ranging from 34.3 percent of the population in 2005 to 60.5 percent in 2010, resulting in the transition of traditional media outlets online.

Office of the Inspector of Journalist Ethics has been established as a state-sponsored authority to regulate, monitor and implement journalist ethics online and beyond. As such, it also promotes arguably discriminatory legislation to prevent information that is considered detrimental for minors.

In 2010, an infamous Law on the Protection of Minors against the Detrimental Effect of Public Information (i.e. "anti-gay propaganda" legislation) has been introduced, outlawing positive public portrayal of LGBT issues. According to the Article 4.2.16 of the Law in question, information that's considered of having a detrimental effect on minors (below 18 years old) is that "which expresses contempt for family values, encourages the concept of entry into a marriage and creation of a family other than stipulated in the Constitution and the Civil Code of the Republic of Lithuania".

On October 19, 2017 the Parliament of the Republic of Lithuania adopted the law on strengthening the notion of family exclusively based on a marriage between a man and a woman. By doing so, it further justified the so-called 'anti-gay propaganda' law. According to Lithuanian authorities, such discriminatory interference with the right to freedom of expression is necessary to protect "emotional, spiritual, psychological development and health of the minors", thus creating a chilling effect on public portrayal of LGBT issues in the Lithuanian society. During the Third Periodic Report at the UN Human Rights Committee, Lithuanian authorities clearly stated that "it is not the depiction of gender diversity that has detrimental effect on minors and is therefore restricted (not prohibited), but rather encouraging of family relationship between people of the same sex."

While the law does not explicitly outlaw positive imagery of LGBT, the implementation of the law speaks the contrary. For instance, in the period between 2013 and 2014 alone, the Law was applied on three different occasions with the view of censoring LGBT-related public information thus directly interfered with the right to freedom of expression of LGBT persons. In 2013, public broadcast of the promotional videos for Baltic Pride 2013 was limited by state-run Lithuanian Radio and Television (LRT) board. The decision which, as a state-sponsored Lithuanian Office of the Inspector of Journalist Ethics (IJE) ruled to have not been in violation of any laws was grounded in the protection of minors and the airing of the ads was limited to late-evening hours only.

5. Good practices.

- The National LGBT rights organization LGL, together with the representatives of the European Commission, social networks and European NGOs, collaborates in monitoring hate speech comments on social media: Facebook, Instagram, Twitter, YouTube and Google+. The office of inspector of Journalists Ethics is also actively involved in hate speech monitoring process. It is believed that further cooperation between social networks, governments and NGO experts will be integral to challenging online hate speech.
- In August 2018, LGL published educational material for LGBT activists operating in hostile environments. "Restricted Expression: Guidelines and Recommendations for LGBT activists in hostile environments" looks at legislations, both enacted and proposed, aimed at limiting the freedom of speech and expression in Lithuania, Belarus and Ukraine. The publication also provides guidelines and recommendations for LGBT activists in respective countries aiming to gain publicity, raise awareness and foster social acceptance. The publication thoroughly covers existing anti-LGBT propaganda legislations and provides LGBT activists with useful tips on dealing with media while operating in hostile environment where most LGBT related topics are being considered as "propaganda" and censored.

6. Conclusion and recommendations.

Media plays an important role in the development of a society. In a hostile Lithuanian media environment there is a tendency of individuals with a strong preexisting attitude to perceive media coverage as biased against their side and in favor of their antagonists' point of view. These actions lead to reinforcing of stereotypes and discrimination of disadvantaged social groups, including LGBT persons. The language used in reporting, the use of incorrect terms, the negative portrayal of LGBT people, are the main tools of media that may reinforce the effect. The aggressive language in Lithuania often comes from popular public figures (politicians, media people, opinion leaders etc.) and through sharing the messages without having a filter, media amplifies their statements. The direct consequences of these attitudes fall on the life of certain individuals, as well as in reinforcing stereotypes and negative attitudes towards certain groups. The media informs and misinforms, forms individuals' views on others, and may increase tensions or promote understanding. This is why there is a need for interventions to support for development of professional media and respect of human rights.

State institutions

• To ensure that Article 4.2.16 of the Law on the Protection of Minors is not applied with the view of censoring LGBT related public information; that any limitations on freedom of expression for the local LGBT community meet the strict requirements of lawfulness, necessity and proportionality and are applied without any discriminatory animus; and that any limitations on the right to freedom of expression for the local LGBT community can be challenged through an effective legal remedy on the national level.

Journalists / Media agencies

- To increase human resource capacities through training journalists on terminology and language to be used for specific communities (ex. peer-to-peer training). Despite technology developments, it is ultimately the journalist's ethics that determines the quality of reporting. Improving the technical components or media materials does not improve the message itself.
- To promote and embrace diversity in work environments. In order to know a community is important to understand their realities in our societies. It is important to work with members of certain social groups and local NGOs to help them get involved in the media.

LGBT rights NGOs

- Continuous monitoring of media behaviour in order to identify the indicators described above so that appropriate interventions can take place as well as cooperation between the relevant structures to follow-up the denunciation of a case of discrimination in the media.
- To strengthen the relationships with journalists in order the media to be used as a tool to support human rights and promote equality. To involve media practitioners in awareness raising and educational programs related to the use of specific terminology for LGBT people.

7. Contact information.

LGBT Media in Lithuania:

• LGL website

E-mail: office@gay.lt
Website: www.lgl.lt

• Gayline.lt

E-mail: info@gayline.lt
Website: www.gayline.lt

LGBT Organizations in Lithuania:

• National LGBT rights organization LGL

Tel: +370 5 2610314 E-mail: office@gay.lt Website: www.lgl.lt

National Equality Body:

The Office of the Equal Opportunities Ombudsperson

Tel: +370 706 63899

Online Complaint Submission: www.lygybe.lt/en/complaints

Website: www.lygybe.lt

National Body for the supervision of media:

• The Office of the Inspector of Journalist Ethics

Tel: +370 5 223 7310 E-mail: zeit@zeit.lt Website: www.zeit.lt/en

Police Services:

• Lithuanian police (to lodge complaint online)

E-mail: www.epolicija.lt

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 No. I-1418, 11 July 2006. Retrieved from: https://www.e-tar.lt/portal/lt/legalAct/TAR.065AB8483E1E/wRduXQRGBc

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- The Annual Report of the Office of the Equal Opportunities Ombudsperson ["Metinė Lygių galimybių kontrolieriaus tarnybos veiklos ataskaita"], 2017. Retrieved from: http://lygybe.lt/data/public/uploads/2018/03/lygiu-galimybiu-kontrolieriaus-2017-m.-veiklos-ataskaita.pdf

ANNEXES

ANNEX 1

European legal framework on hate crime and hate speech related (and) to Media.

• Council of Europe, European Convention on Human Rights as amended by Protocols Nos. 11 and 14 supplemented by Protocols Nos. 1, 4, 6, 7, 12, 13 and 16.

ARTICLE 14

Prohibition of discrimination

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

• Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law.

Article 1

Offences concerning racism and xenophobia

- 1. Each Member State shall take the measures necessary to ensure that the following intentional conduct is punishable:
- (a) publicly inciting to violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin;
- (b) the commission of an act referred to in point (a) by public dissemination or distribution of tracts, pictures or other material;
- (c) publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes as defined in Articles 6, 7 and 8 of the Statute of the International Criminal Court, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group;

- (d) publicly condoning, denying or grossly trivialising the crimes defined in Article 6 of the Charter of the International Military Tribunal appended to the London Agreement of 8 August 1945, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group.
- Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (AMSD), OJ L 95, 15 April 2010.

Article 6

Member States shall ensure by appropriate means that audiovisual media services provided by media service providers under their jurisdiction do not contain any incitement to hatred based on race, sex, religion or nationality.

(...)

Article 9

- 1. Member States shall ensure that audiovisual commercial communications provided by media service providers under their jurisdiction comply with the following requirements:
- (...)
- (c) audiovisual commercial communications shall not:
- (i) prejudice respect for human dignity;
- (ii) include or promote any discrimination based on sex, racial or ethnic origin, nationality, religion or belief, disability, age or sexual orientation;

ANNEX 2

Relevant recommendations of European Bodies/Institutions.

• Council of Europe, Recommendation No. R (97) 20 of the Committee of Ministers to member states on "hate speech" (Adopted by the Committee of Ministers on 30 October 1997 at the 607th meeting of the Ministers' Deputies).

The Committee of Ministers recommends that the governments of member states:

- "1. take appropriate steps to combat hate speech on the basis of the principles laid down in this recommendation;
- 2. ensure that such steps form part of a comprehensive approach to the phenomenon, which also targets its social, economic, political, cultural and other root causes;
- 3. where they have not done so, sign, ratify and effectively implement in national law the United Nations Convention on the Elimination of All Forms of Racial Discrimination, in accordance with Resolution (68) 30 of the Committee of Ministers on measures to be taken against incitement to racial, national and religious hatred;
- 4. review their domestic legislation and practice in order to ensure that they comply with the principles set out in the appendix to this recommendation.

Appendix to Recommendation No. R (97) 20

Scope

The principles set out hereafter apply to hate speech, in particular hate speech disseminated through the media.

For the purposes of the application of these principles, the term "hate speech" shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin.

Principle 1

The governments of the member states, public authorities and public institutions at the national, regional and local levels, as well as officials, have a special responsibility to refrain

from statements, in particular to the media, which may reasonably be understood as hate speech, or as speech likely to produce the effect of legitimising, spreading or promoting racial hatred, xenophobia, anti-Semitism or other forms of discrimination or hatred based on intolerance. Such statements should be prohibited and publicly disavowed whenever they occur.

Principle 2

The governments of the member states should establish or maintain a sound legal framework consisting of civil, criminal and administrative law provisions on hate speech which enable administrative and judicial authorities to reconcile in each case respect for freedom of expression with respect for human dignity and the protection of the reputation or the rights of others.

To this end, governments of member states should examine ways and means to:

- stimulate and co-ordinate research on the effectiveness of existing legislation and legal practice;
- review the existing legal framework in order to ensure that it applies in an adequate manner to the various new media and communications services and networks; develop a co-ordinated prosecution policy based on national guidelines respecting the principles set out in this recommendation;
- add community service orders to the range of possible penal sanctions;
- enhance the possibilities of combating hate speech through civil law, for example by allowing interested non-governmental organisations to bring civil law actions, providing for compensation for victims of hate speech and providing for the possibility of court orders allowing victims a right of reply or ordering retraction;
- provide the public and media professionals with information on legal provisions which apply to hate speech.

Principle 3

The governments of the member states should ensure that in the legal framework referred to in Principle 2, interferences with freedom of expression are narrowly circumscribed and applied in a lawful and non-arbitrary manner on the basis of objective criteria. Moreover, in accordance with the fundamental requirement of the rule of law, any limitation of, or interference with, freedom of expression must be subject to independent judicial control.

This requirement is particularly important in cases where freedom of expression must be reconciled with respect for human dignity and the protection of the reputation or the rights of others.

Principle 4

National law and practice should allow the courts to bear in mind that specific instances of hate speech may be so insulting to individuals or groups as not to enjoy the level of protection afforded by Article 10 of the European Convention on Human Rights to other forms of expression. This is the case where hate speech is aimed at the destruction of the rights and freedoms laid down in the Convention or at their limitation to a greater extent than provided therein.

Principle 5

National law and practice should allow the competent prosecution authorities to give special attention, as far as their discretion permits, to cases involving hate speech. In this regard, these authorities should, in particular, give careful consideration to the suspect's right to freedom of expression given that the imposition of criminal sanctions generally constitutes a serious interference with that freedom. The competent courts should, when imposing criminal sanctions on persons convicted of hate speech offences, ensure strict respect for the principle of proportionality.

Principle 6

National law and practice in the area of hate speech should take due account of the role of the media in communicating information and ideas which expose, analyse and explain specific instances of hate speech and the underlying phenomenon in general as well as the right of the public to receive such information and ideas.

To this end, national law and practice should distinguish clearly between the responsibility of the author of expressions of hate speech, on the one hand, and any responsibility of the media and media professionals contributing to their dissemination as part of their mission to communicate information and ideas on matters of public interest on the other hand.

Principle 7

In furtherance of Principle 6, national law and practice should take account of the fact that:

- reporting on racism, xenophobia, anti-Semitism or other forms of intolerance is fully protected by Article 10, paragraph 1, of the European Convention on Human Rights and may only be interfered with under the conditions set out in paragraph 2 of that provision;

- the standards applied by national authorities for assessing the necessity of restricting freedom of expression must be in conformity with the principles embodied in Article 10, as established in the case law of the Convention's organs, having regard, inter alia, to the manner, content, context and purpose of the reporting;
- respect for journalistic freedoms also implies that it is not for the courts or the public authorities to impose their views on the media as to the types of reporting techniques to be adopted by journalists".
- Council of Europe, Recommendation No. R (97) 21 of the committee of ministers to member states on the media and the promotion of a culture of tolerance (Adopted by the Committee of Ministers on 30 October 1997 at the 607th meeting of the Ministers' Deputies).

The Committee of Ministers Recommends that the governments of the member states:

- "1. make the following target groups aware of the means of action set out in the appendix to this recommendation:
- press, radio and television enterprises, as well as the new communications and advertising sectors;
- the representative bodies of media professionals in these sectors;
- regulatory and self-regulatory bodies in these sectors;
- schools of journalism and media training institutes;
- 2. examine in a positive spirit any requests for support for initiatives undertaken in pursuance of the objectives of this recommendation.

Appendix to Recommendation No. R (97) 21

Scope

The means of action set out hereafter aim to highlight non-exhaustive examples of professional practices conducive to the promotion of a culture of tolerance which merit more general application in the various media sectors mentioned above.

Professional practices conducive to the promotion of a culture of tolerance

1. Training

Initial training

Schools of journalism and media training institutes, in so far as they have not yet done so, might usefully introduce specialist courses in their core curricula with a view to developing a sense of professionalism which is attentive to:

- the involvement of the media in multi-ethnic and multicultural societies;
- the contribution which the media can make to a better understanding between different ethnic, cultural and religious communities.

Further training

Media enterprises might usefully provide in-house training or opportunities for outside training for their media professionals at all levels, on professional standards on tolerance and intolerance.

2. Media enterprises

The problem of intolerance calls for reflection by both the public and within the media. Experience in professional media circles has shown that media enterprises might usefully reflect on the following:

- reporting factually and accurately on acts of racism and intolerance;
- reporting in a sensitive manner on situations of tension between communities;
- avoiding derogatory stereotypical depiction of members of cultural, ethnic or religious communities in publications and programme services;
- treating individual behaviour without linking it to a person's membership of such communities where this is irrelevant;
- depicting cultural, ethnic and religious communities in a balanced and objective manner and in a way which also reflects these communities' own perspectives and outlook;
- alerting public opinion to the evils of intolerance;
- deepening public understanding and appreciation of difference;
- challenging the assumptions underlying intolerant remarks made by speakers in the course of interviews, reports, discussion programmes, etc;

- considering the influence of the source of information on reporting;
- the diversity of the workforce in the media enterprises and the extent to which it corresponds to the multiethnic, multicultural character of its readers, listeners or viewers.

3. Representative bodies of media professionals

Representative bodies of the various categories of media professionals might usefully undertake action

programmes or practical initiatives for the promotion of a culture of tolerance.

4. Codes of conduct

Such initiatives and actions could go hand in hand with professional codes of conduct drawn up within the different media sectors, which address the problems of discrimination and intolerance by encouraging media professionals to make a positive contribution towards the development of tolerance and mutual understanding between the different religious, ethnic and cultural groups in society.

5. Broadcasting

While public service broadcasters have a special commitment to promote a culture of tolerance and understanding, the broadcasting media as a whole are a potent force for creating an atmosphere in which intolerance can be challenged. They might find inspiration from broadcasters who, for example,:

- make adequate provision for programme services, also at popular viewing times, which help promote the integration of all individuals, groups and communities as well as proportionate amounts of airtime for the various ethnic, religious and other communities;
- develop a multicultural approach to programme content so as to avoid programmes which present society in mono-cultural and mono-linguistic terms;
- promote a multicultural approach in programmes which are specifically geared to children and young people so as to enable them to grow up with the understanding that cultural, religious and ethnic difference is a natural and positive element of society;
- develop arrangements for sharing, at the regional, national or European level, programme material which has proven its value in mobilising public opinion against the evils of intolerance or in contributing towards promoting community relations in multi-ethnic and multicultural societies.

6. Advertising

Although the multi-ethnic and multicultural character of consumer society is already reflected in certain commercial advertisements and although certain advertisers make an effort to prepare advertising in a way which reflects a positive image of cultural, religious and ethnic diversity, practices such as those set out hereafter could be developed by the professional circles concerned.

In certain countries, codes of conduct have been drawn up within the advertising sector which prohibit discrimination on grounds such as race, colour, national origin, etc.

There are media enterprises which refuse to carry advertising messages which portray cultural, religious or ethnic difference in a negative manner, for example by reinforcing stereotypes.

Certain public and private organisations develop advertising campaigns designed to promote tolerance. The media could be invited to co-operate actively in the dissemination of such advertisements".

 Council of Europe, Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity (Adopted by the Committee of Ministers on 31 March 2010 at the 1081st meeting of the Ministers' Deputies).

"I. Right to life, security and protection from violence

(...)

B. "Hate speech"

6. Member states should take appropriate measures to combat all forms of expression, including in the media and on the Internet, which may be reasonably understood as likely to produce the effect of inciting, spreading or promoting hatred or other forms of discrimination against lesbian, gay, bisexual and transgender persons. Such "hate speech" should be prohibited and publicly disavowed whenever it occurs. All measures should respect the fundamental right to freedom of expression in accordance with Article 10 of the Convention and the case law of the Court.

- 7. Member states should raise awareness among public authorities and public institutions at all levels of their responsibility to refrain from statements, in particular to the media, which may reasonably be understood as legitimizing such hatred or discrimination.
- 8. 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 organisations, political organisations and religious communities".
- European Commission against Racism and Intolerance (ECRI) General Policy Recommendation No. 15 on combating hate speech adopted on 8 December 2015.

The European Commission against Racism and Intolerance (ECRI) recommends that the governments of member States:

(...)

- "7. use regulatory powers with respect to the media (including internet providers, online intermediaries and social media), to promote action to combat the use of hate speech and to challenge its acceptability, while ensuring that such action does not violate the right to freedom of expression and opinion, and accordingly:
- a. ensure effective use is made of any existing powers suitable for this purpose, while not disregarding self-regulatory mechanisms;
- b. encourage the adoption and use of appropriate codes of conduct and/or conditions of use with respect to hate speech, as well as of effective reporting channels;
- c. encourage the monitoring and condemnation of the use and dissemination of hate speech;
- d. encourage the use, if necessary, of content restrictions, word filtering bots and other such techniques;
- e. encourage appropriate training for editors, journalists and others working in media organisations as to the nature of hate speech, the ways in which its use can be challenged;
- f. promote and assist the establishment of complaints mechanisms; and
- g. encourage media professionals to foster ethical journalism;

(...)

I. Media and the Internet

Recommendation 7

130. The use of hate speech in the vast majority of cases takes place through the media and the Internet, with the connected opportunities afforded by the latter often enhancing the reach and the immediacy of such use. At the same time, the media and the Internet are also amongst the primary means not just for communicating and reinforcing the values which the use of hate speech seeks to undermine but also for exercising the right to freedom of expression which is fundamental to a democratic society. Thus, the specific focus in this recommendation on both regulation of and self-regulation by the media and the Internet reflects the recognition of their particular significance for hate speech — as a vehicle both for using it and challenging this - and also of the need to ensure that any control exercised over freedom of expression is as limited as possible. While some regulation of the media and the Internet is not inconsistent with the right to freedom of expression, the placing of greater reliance on self-regulation to tackle the use of hate speech will in many instances be not only more effective but also more appropriate.

Recognising diversity

131. The term "media and the Internet" is one that embraces many forms of communication with vastly different characteristics and impact. Thus, it covers print media (such as newspapers, journals and books, as well as pamphlets, leaflets and posters) but also audiovisual and electronic media (such as radio, television, digital recordings of sound and image, web sites, apps, emails and a vast array of social media and video games) and undoubtedly other forms of communication that may yet be developed. Moreover, some things spoken, published or otherwise communicated will be truly individual initiatives, while others will be the product of substantial business enterprises. Some such communications will be subject to varying forms of editorial control but others will appear without being reviewed by anyone other than their originator and indeed appear without the prior knowledge of the person providing the particular means of communication. In many instances the author of a communication will be identifiable but in others he or she can remain anonymous. Some communications will reach an audience almost instantaneously but others will depend on the willingness to listen, read or otherwise access what is being communicated. Some will be widely disseminated and/or enduring but others will be barely noticed and/or fleeting in their existence. All these differences need to be taken into account when determining the scope of regulatory action and self-regulation, as well as whether expectations as to what they can achieve are realistic.

132. Apart from the requirements applicable to statements and publications (including broadcasts) under the general law (discussed in the following section), the degree of specific regulation to which the media and the internet are subject varies from one member State to another. In some instances there is a requirement to obtain a licence or franchise to operate. There may also be a requirement to abide by certain standards, with the imposition of sanctions – including the permanent or temporary loss of the licence or franchise being possible – where these are breached. In other instances there may only be a requirement to observe certain standards and the existence of some power to enjoin the particular material from being put into circulation, as well as the possibility of exercising indirect influence through the grant of subsidies in cash or in kind that are subject to the fulfilment of certain conditions. Yet in others there are no particular requirements to be observed apart from those under the generally applicable law.

Basic requirements

133. All **regulatory action** with respect to the media and the Internet – including that directed to the use of hate speech – must be consistent with the right to freedom of expression and afford the safeguards against misuse of power applicable to all legal measures affecting the exercise of this right (considered in the following section). Recommendation 7 does not suggest that any new regulatory powers should be adopted but does indicate that effective use should be made of all existing ones – including the full range of available sanctions – that might be relevant to tackling the use of hate speech. For this purpose, however, it is important – as it has been already observed – that the understanding of hate speech relied upon should be as wide as the one found in the Recommendation. In addition, such powers as exist will only be useful if the relevant bodies both actively monitor the entities that they are meant to regulate – including taking the initiative to look at the way certain groups of persons are being portrayed – and respond promptly to instances where the use of hate speech is drawn to their attention.

134. Moreover, the regulatory bodies should ensure that there is sufficient public awareness of their role so that such instances are actually drawn to their attention. Regrettably, it is recalled that in the monitoring cycles it has been noted that the relevant bodies sometimes only exist on paper as they have not actually been properly constituted and this clearly needs to be remedied for any regulatory action to occur. However, consistent with the need to respect the right to freedom of expression, those with regulatory roles should appreciate the desirability of giving preference to using such powers as they have to encourage effective self-regulation of the use of hate speech rather than seeking themselves to intervene directly with the operation of the media and the Internet.

135. The elaboration in recommendation 6 on **self-regulation** as regards the adoption of appropriately formulated codes of conduct (or ethics), monitoring, complaints mechanisms and training is generally applicable to the operation of self-regulation by the media and the Internet. It is not, therefore, repeated in this section but certain aspects of especial relevance to the media and the Internet are highlighted.

Codes of conduct

136. As has been noted in the monitoring cycles, various codes of conduct (or ethics) containing provisions on hate speech have already been adopted by many media professionals and organisations, including the Internet industry75 Some have been adopted by professionals themselves and others are internal documents of particular organisations but many apply across specific

sectors. In some instances they are entirely the initiative of those adopting them but often they have been prompted by regulatory pressures. However, although these codes often specifically provide that hatred should not be incited and that discrimination should not be propagated, they do not generally cover all the aspects of hate speech as this is understood in the Recommendation, including its more coded forms. Moreover, in some member States the only codes that do exist are limited – whether formally or in practice - to just print media and they may not even apply to companion websites on which hate speech may be posted.

137. There is a need, therefore, to encourage the adoption of codes that cover the widest possible range of media and internet use. Furthermore, such codes – or conditions of use – should govern everyone and not just media professionals and organisations, although it might not be possible for these to cover all individual initiatives (such as self-publishing). This does not mean that there should just be one code as that could make it difficult, if not impossible, to take account of the different forms of communication being used. However, the conduct proscribed in these codes should explicitly use the understanding of hate speech found in the Recommendation.

138. Moreover, given the influence that can be exercised by or through the media and the Internet, it would be appropriate for these codes not only to proscribe the use of hate speech in all its forms but also to indicate ways of presenting information that does not unnecessarily strengthen the attitudes that sustain the use of hate speech, to require that proper account be given of the perspective of those targeted by the use of hate speech in reporting events and to encourage the coverage of events that challenge negative perceptions about particular groups of persons. Thus, the inclusion in news reports of the ethnic origin of the alleged perpetrator of an offence is not generally relevant but this

fact can often be remembered despite the person concerned having been subsequently acquitted. There is also a need for care to be exercised in reporting some events, particularly those involving extremists or terrorists, since sensationalising them and focusing on drama can inadvertently strengthen prejudices and inflame passions.

139. In addition, consideration should be being given to whether or not certain events involving those frequently stigmatised are only being reported because those reporting them share the negative perceptions of them, as well as to whether persons hostile to such groups are effectively given privileged access to certain outlets. Similarly, the conditions of use for web fora and similar services might preclude the use of anonymous comments. In addition, they might also preclude access at night-time where this possibility is seen to facilitate the posting of offensive comments. Moreover, reports concerning events involving or of concern to persons who are frequently targeted by the use of hate speech – such as those reporting their involvement in some alleged disorder or dispute – often do not give their view on the circumstances concerned and thus allow the reinforcement of misinformation and negative stereotyping to go unchallenged. Furthermore, such stereotyping and stigmatisation could also be challenged by the publication of reports showing persons belonging to groups of persons targeted by hate speech in a positive light, such as ones dealing with their successful integration or explaining the values underpinning particular traditions. Reporting of this kind could be facilitated by encouragement for the development of tools such as the glossary for journalists on integration that explains certain key terms, which was noted in a monitoring cycle. In this way, the codes could encourage the media to develop counter narratives to the 'rationale' that underpins the use of hate speech.

Monitoring

140. A crucial aspect of self-regulation is the monitoring of what is being communicated by media and through the Internet. This is of general importance but it is especially necessary where this has not been subject to any form of editorial control. Even where there are codes of conduct (or ethics), monitoring is not always undertaken systematically. This is notably so in respect of the use of hate speech on the Internet. However, as some services on the Internet have shown, there are various automatic techniques available to search for hate speech and these can be complemented by specific facilities to report its use and the material in question can then be removed in accordance with the service's conditions of use. Such schemes should be emulated and, wherever possible, they should be encouraged by regulatory authorities. In addition, research into enhancing their effectiveness should be encouraged to report uses of hate speech and non-governmental organisations should be supported in the

undertaking of monitoring or the operation of contact points or hot-lines so that such uses of hate speech can be identified. Monitoring will, however, only be worthwhile if this also leads to the timely deletion of uses of hate speech that are identified and the commitment to do so has already been made by some social platforms that have undertaken both these approaches. Consideration should also be given, in particular cases, to whether or not it would be appropriate for persistent uses of hate speech to entail the blocking of access to internet services where this occurs.

Complaints mechanisms

141. The impact of the complaints mechanisms that exist seems to be variable. Although there are certainly instances in which complaints about the use of hate speech are considered and upheld, there are many others where this does not occur. In addition, as already noted, some are limited to print media and in particular newspapers and journals. Moreover, even these mechanisms are not applicable to all such publications because they are based on voluntary membership and some do not choose to join it. In addition, some of the mechanisms are entirely internal bodies of a given media or internet entity. Furthermore, some do not attract many complaints despite the extent of the use of hate speech occurring and this seems partly attributable to the fact that the mechanisms are not very well-known and, where this is not the case, lack of confidence that they will be effective. Certainly, any rulings that are adopted – which usually just entail the publication of the specific finding by the mechanism – are not generally binding and are not always acted upon.

142. There is a need, therefore, for either complaints mechanisms that apply to particular sectors of the media and the Internet - and are thus not merely internal bodies — to have a wider remit to embrace sectors that are not currently covered or for similar bodies to be established for those sectors. Moreover, confidence in such mechanisms could be enhanced by ensuring that they were better known, they enjoyed clear independence from the influence of those whose conduct was being considered, and their role and rulings were more widely accepted, with the latter being given sufficient prominence so that any condemnation of the use of hate speech is obvious to all concerned. Steps in this direction should, therefore, be encouraged by regulatory bodies.

Preserving freedom of expression

143. At the same time, self-regulatory action should not lead to unjustified interferences with the right to freedom of expression. Thus, the barring and deletion of material from, for example, social platforms would only be justified where the actual use of hate speech is involved, However, it is certainly possible that the application of codes of conduct and

conditions of use leading to the barring and deletion of material may in fact involve a mistaken or overbroad interpretation as to what can amount to hate speech, resulting in particular instances of the exercise of freedom of expression being unjustifiably stifled. There is a need, therefore, for decisions that have the effect of barring or deleting material to be subject to appeal and ultimately to challenge in the courts. Without such remedies, there will not be adequate protection for the right to freedom of expression.

Provision of training

144. As with other forms of self-regulation, there is also a need to ensure that **appropriate training** is provided for those involved in its operation. In particular, media professionals should not only have a deeper understanding of what constitutes hate speech but also appreciate how, in what they write and publish, they can both avoid facilitating its use and combat the conditions that give rise to such use through promoting tolerance and better understanding between cultures".

The E.T.Ho.S. Project Team

(in alphabetical order)



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This Guide was developed by the team of the E.T.Ho.S. Project with the aim of providing journalists, other types of media staff as well as media students a practical tool on how to evade the (re)production of anti-LGBT media stereotypes/prejudices and ensure the appropriate media cover of LGBT issues.

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