

Stronger Together: An Equinet Roundtable on implementing the EC LGBTIQ Strategy

Roundtable Report

31 March

INTRODUCTION

On 31 March 2021, Equinet organised an online roundtable to identify ways to successfully cooperate in light of the first-ever [LGBTIQ Equality Strategy](#). During the event, national equality bodies, national authorities, EU institutions and civil society organisations from across Europe gathered to pinpoint the best ways to cooperate for a successful implementation of the LGBTIQ Strategy and to identify the roles national equality bodies can play. The presentations and conversations held during the roundtable contributed to rich outcomes which are summarized in this document.

SETTING THE SCENE: LGBTIQ EQUALITY

Richard Köhler, Senior Policy Officer, Transgender Europe

The roundtable opened with an engaging speech by Transgender Europe honouring the International Transgender Day of Visibility and sharing a personal story on coming out of shame and being able to embrace one's perception of identity.

"If I, as little Richard, would have known there are trans people out there, and there are trans people who are happy, I would have come out much earlier. My life as a kid would have been less alone and less shameful"

Evin Incir MEP, Co-chair ARDI Intergroup & member of the LGBTI Intergroup

This was followed by a presentation on how to make the LGBTIQ Strategy a reality for all, emphasizing the need for strong anti-discrimination laws.

"I dare to say that there is no society where the whole LGBTIQ community can feel fully safe, even if there are better and worse places"

“I am proud that we recognised the EU as an LGBTIQ Freedom Zone”

Tena Šimonovic Einwalter, Ombudswoman of Croatia, Chair of Equinet

The session was closed by an introduction on the work of Equinet and equality bodies as well as naming the several challenges encountered by national equality bodies protecting LGBTIQ persons.¹ Given adequate mandates (e.g., grounds “sex characteristics” and “gender identity”) and powers such as legal standing, national equality bodies can play a role at the forefront of promoting equality and safeguarding LGBTIQ rights.

“I do think stronger equality bodies make better LGBTIQ allies, and binding legislation on equality bodies would help them reach their full potential”.

SESSION 1: LITIGATING FOR LGBTIQ EQUALITY

Csaba Ferenc Asztalos, President of the National Council for Combating Discrimination, Romania

Arpi Avetisyan, Head of Litigation, ILGA-Europe

Iustina Ionescu, Human Rights Lawyer, ACCEPT Association, Romania

During this session, speakers showed the importance of strategic litigation in advancing LGBTIQ equality and reflected on the need for all equality bodies to be granted this competence. A clear starting point was the Coman case², where an equality body from Romania was involved, intervening as a third party supporting the applicants and pointing at the protection of same-sex couples in the EU. In Romania, the legal duty upon judges to request an advisory opinion from the national equality body was highlighted as essential to enhance the role of the equality body in influencing national case law on equality.

→ **This confirms that the Member States enabling strategic litigation powers to equality bodies is a crucial step towards achieving LGBTIQ equality in Europe.**

¹ For more information of the work of Equinet and equality bodies on LGBTIQ rights, please see the following publications:

- [Equinet discussion paper: Equality Bodies Working on the Rights and Discriminations Faced by Trans and Intersex Persons](#)
- [LGBTI Factsheet](#)
- [An Equinet Perspective: Equality Bodies Promoting Equality and Non-Discrimination for LGBTI People](#)

² For information related to the Coman case, please see the following links:

- [Free Movement of Same-Sex Spouses within the EU: The ECJ’s Coman judgement](#)
- [Rumania Gay Marriage Case Could Have Outsize Impact in Europe](#)
- [Awaiting the ECJ Judgment in Coman: Towards the Cross-Border Legal Recognition of Same-Sex Marriages in the EU?](#)

Moreover, speakers identified equality bodies as strong allies for the LGBTIQ community in their work on strategic litigation. While at some stages homophobic campaigns were widespread, the equality bodies across Europe remained essential support and voiced a point of view that was in favour of the protection of equality and dignity of same-sex families.

SESSION 2: DEFENDING LGBTIQ EQUALITY IN A CHALLENGING POLITICAL CONTEXT

Adam Bodnar, Polish Commissioner for Human Rights

Gwendoline Delbos-Corfield MEP, Rapporteur on the rule of law situation in Hungary and member of the LGBTI Intergroup

This session explored ways to defend LGBTIQ equality in countries where the legal systems and the state administrators themselves pose a major challenge for LGBTIQ people. Particularly, this session focused on the backsliding of LGBTIQ protection in Poland and Hungary. In Poland, the decline in the protection of LGBTIQ rights is evidenced in both the legal and political context. For instance, there are ongoing gaps under Polish laws which do not cover sexual orientation or gender identity, and which are not being addressed. Likewise, the political context poses a major problem, as illustrated by the “anti-LGBT ideology” resolutions which promote “traditional families” in an attempt to exclude LGBTIQ people.³ Furthermore, the speakers expressed concerns regarding the instrumentalisation of LGBT rights and scapegoating of LGBTIQ people in the last presidential campaigns in Poland as a method to gain electoral support, leading to toxic political battles. This challenging situation has had a great impact on public discourse towards LGBTIQ people and on the work of the Polish equality body defending LGBTIQ rights. Similarly, there is an ongoing call for stigmatization and exclusion to LGBTI persons in Hungary. For example, the definition of a family in the Hungarian Constitution was amended in 2020 which now allows an effective ban on adoption by same-sex couples.

→ **In this challenging context, equality bodies proved to play a crucial role in protecting LGBTIQ persons. Equality bodies contributed to challenging resolutions against “LGBT ideology”, provided support to victims and gave them the possibility of taking their case under independent assessment.**

Looking forward, the **importance of independence and protection from political attacks** on national equality bodies was noted. Likewise, the need for increased funds for the implementation of the LGBTI Strategy and the need of implementing a conditionality rule of law mechanism for the EU budget, easier to apply against member states breaching the rule of law, was mentioned as solutions to strengthen relevant stakeholders defending LGBTIQ equality in a challenging context.

SESSION 3: TOWARDS SUCCESSFUL IMPLEMENTATION OF THE LGBTIQ EQUALITY STRATEGY

³ Equinet publication [‘Combating “Anti-LGBT” Resolutions in Poland: Stories from behind the scenes’](#)

Following the publication of the first-ever LGBTIQ Equality Strategy by the European Commission, Europe has an opportunity to improve its protections for LGBTIQ people.⁴ Panellists answered concrete questions concerning the implementation of the EU LGBTIQ Strategy.

Question 1 - How is the LGBTIQ Strategy different from the previous List of Actions?

Szabolcs Schmidt, Head of Unit, DG JUST, European Commission

A starting point was recognising that the [List of Actions for Advancing LGBTI Equality \(2015-19\)](#) was an important first step towards LGBTIQ equality, which allowed regular reporting and launched a great initiative to gather necessary data. However, several differences were identified with regards to the LGBTIQ Strategy. First of all, the content of the Strategy includes a wider approach, which embraces the variety of individuals in the LGBTIQ community. Furthermore, the Strategy seeks a clear objective towards a Union where equal opportunities and non-discrimination are provided for, and where safety and the full participation of LGBTQ people are ensured. The scope is also broader. The LGBTIQ Strategy does not only concern EU institutions, but also funding and legal and policy instruments at the European and national level. It was also highlighted that the Strategy takes a more inclusive approach to stakeholders which includes civil society organisations and national equality bodies as relevant contributors. Finally, the LGBTIQ Strategy includes a concrete chapter on implementation.

Question 2 – What is the situation of LGBTIQ equality in Lithuania and is there a plan to develop a national action plan on LGBTIQ equality?

Tomas Vytautas Raskevičius, Member of the Parliament of the Republic of Lithuania, Chairperson of Human Rights Committee

While the current situation of LGBTIQ equality in Lithuania is stagnating, the recent elections are hopeful, as the governing coalition consists of political parties which actively support LGBT rights and equality. Concerning legislative initiatives, three key matters being discussed in Lithuania are about LGBTIQ rights:

- Legal recognition of same-sex relationships
- Legal gender recognition for transgender persons
- Repealing the “Anti-Gay propaganda” legislation

It was noted that to implement these changes in the legislation, political will in addition to bold statements from the European Commission are crucial to take further steps. The LGBTIQ Strategy offers support in this regard. The standards on the implementation and the broader policy implications of the Strategy such as national action plans should contribute to further the protection of LGBTIQ people in Lithuania.

Question 3 – What are the essential issues regarding trans equality which will need to be closely monitored?

Richard Köhler, Senior Policy Officer, Transgender Europe

One of every three trans persons in the European Union has been discriminated against at their workplace and statistics go up to 40% for trans women. This illustrates part of the worrying situation

⁴ Equinet publication ‘[Historic, ambitious and a great signal for equality bodies: Discussing the first-ever EU LGBTIQ Strategy](#)’ examines the LGBTIQ Strategy.

that transgender people are confronted with within their daily life across Europe. It was noted that the Strategy lacks concrete measures to address gender reassignment as the Strategy refers to the monitoring of the EU employment Directive, but neither gender identity nor gender reassignment is mentioned in the Directive. For this reason, it is essential that when the Commission monitors the EU employment Directive, it also takes into account how to better protect trans, non-binary, queer and intersex persons. Equality bodies play a key role regarding trans equality. They can disclose shortcomings in the protection of LGBTIQ people and promote legislative initiatives accordingly.

- **Equality bodies are also crucial to building trust among the queer and trans community in order to file complaints and bring the civil society representing trans people to legislative processes, because any legislative change affecting trans people also needs to be discussed and planned together with them.**

Question 4 - How is the LGBTI intergroup planning to get involved in implementing the Strategy?

Marc Angel, MEP, LGBTI Intergroup Co-Chair

The LGBTI intergroup can be seen to pursue the implementation of the Strategy by carrying out a wide range of actions, including control functions, writing reports or raising awareness. The control function is essential for the intergroup and it is exercised through oral or written questions on the European Commission's work. Other actions highlighted are the organisation of meetings both internal and external to raise attention or sending letters to authorities of EU institutions and Member States as well as attending conferences to raise awareness of LGBTI needs at the local and national level. When it comes to raising awareness, the link with civil society organisations is crucial. Involving local communities would ensure a more effective and impactful legal framework.

Question 5 - Why do equality bodies need to get involved in the design, implementation and monitoring of the Strategy?

Miha Lobnik, Advocate for the Principle of Equality, Slovenia, Board Member of Equinet

The main cross-cutting reason why equality bodies need to get involved is because of the important role they play in building bridges within different partners and communities.

- **Equality bodies are uniquely placed in the policy landscape and as independent institutions, they can help to build synergies and bridges on key policy issues, such as the LGBTIQ Strategy.**

Furthermore, equality bodies have functions and expertise which can help them implement and monitor the Strategy. For instance, the collection of data, provision of training to relevant professionals or policy recommendations are useful tools used by equality bodies to ensure the implementation of the Strategy.

Question 6 - What are the key issues that will need closer monitoring in the Strategy and what challenges do you foresee for the implementation of the Strategy?

Katrin Hugendubel, Advocacy Director, ILGA-Europe

Several challenges and issues that will need closer monitoring were mentioned. First, legal gender recognition based on self-determination remains a crucial issue. Also in the legislative area, the urge

to ban medically unnecessary surgeries on intersex children was highlighted. Another specific problem identified was access to the labour market and the need to use strategic litigation to address this problem. Another challenge mentioned was the management of EU funding and the need to ensure funding conditionalities to protect and promote equality. Finally, the importance of equality bodies, and their independence was reaffirmed for ensuring the protection of LGBTIQ rights.

Question 7 - For you, what does successful collaboration look like and what should be the roles of different actors? In particular, what should be the role of equality bodies in this collaboration?

Looking forward, all panellists discussed and pinpointed different ways to cooperate for a successful implementation of the LGBTIQ Strategy.

- The European Commission to engage in a constructive exchange with input from civil society organisations and equality bodies on what are the gaps and needs of implementing the LGBTIQ Strategy.
- Ensure transparency and access to information in order to facilitate effective monitoring of the LGBTIQ Strategy.
- Reinforce a non-discrimination and equality focus before the law. Strengthening equality bodies and their preventive and promotional functions can contribute to casting light upon the need for equality before the law of LGBTIQ persons.
- Ensure the involvement of equality bodies in the design, development and implementation of national action plans as stakeholders and contributors.
- Pursue the involvement of local communities and activists. Their input is necessary to provide a detailed report of the existing situation on the ground.

Further to these questions, the panellists also discussed the commitment to bring an intersectional approach to the implementation of the LGBTIQ Strategy. In this regard, it was first pointed out the limitations in this area given the current EU legislation. For instance, the lack of explicit protection for trans- and intersex persons against discrimination in the current EU legal framework, limits the potential of an intersectional approach since it depends on the enumerated protected grounds in EU legislation. On the other hand, it was also emphasized the need to include intersectionality in broader legislation and policy documents, and the intersectional provision in the proposed Pay Transparency Directive was welcomed.

As a concluding summary of the session, the importance of equality bodies was further highlighted.

- **Equality bodies are key actors in the checks and balances process, watchdogs for equality, they bring voices up to the policy level and bring reality into policy, they play a crucial role in building trust among the LGBTIQ communities and share their wealth of expertise and knowledge. They must be part of the process to achieve further LGBTIQ equality.**

Given the active role assigned to equality bodies in the implementation of the LGBTIQ Strategic Framework, the independence of equality bodies and the need for new legislation to strengthen their role has become indispensable for an effective drive towards LGBTIQ equality.

Binding legislation on equality bodies would help equality bodies reach their full potential resulting in a more coherent implementation and enforcement of the EU's equal treatment legislation and policy frameworks, including the LGBTIQ Equality Strategy. In the absence of strong, effective and binding standards which protect their resources, independence and mandate, equality bodies would certainly not be able to carry out essential work on LGBTIQ equality, complement and enhance the work of LGBTIQ civil society organisations, or face the significant challenges arising from a tense political context across Europe. **In sum, stronger equality bodies make better LGBTIQ allies.**

CONCLUDING SESSION

Helena Dalli, European Commissioner for Equality

'I share a vision of a European Union, where LGBTIQ persons can love and build their families without other considerations such as their fear, negative reactions by loved ones, or societal discrimination, and where no considerations related to society's attitudes or administrative burdens, enter into the equation of whether to freely move to another country.'

Miha Lobnik, Advocate for the Principle of Equality, Slovenia, Board Member of Equinet

The closing remarks began by highlighting the low reporting of cases of LGBTIQ discrimination, and noting that the European Commission is assessing the possibility of tabling legislation to strengthen the role of national equality bodies by 2022. Furthermore, it was announced that the European Commission is setting up an LGBTIQ equality subgroup under the High-level Working Group on Non-discrimination and Diversity. Final words encouraged national equality bodies and civil society organisations to promote and participate in the development of national action plans.