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*Committee on Civil Liberties, Justice and Home Affairs*

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## **DRAFT REPORT**

on the EU Roadmap against homophobia and discrimination on grounds of  
sexual orientation and gender identity  
(2013/2183(INI))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Ulrike Lunacek

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on the EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity (2013/2183(INI))

*The European Parliament,*

- having regard to Article 2 of the Treaty on European Union,
- having regard to Articles 8 and 10 of the Treaty on the Functioning of the European Union,
- having regard to the Charter of Fundamental Rights of the European Union and in particular its Article 21,
- having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms,
- having regard to Recommendation CM/Rec(2010)5 of the Committee of Ministers of the Council of Europe to member states on measures to combat discrimination on grounds of sexual orientation or gender identity, adopted on 31 March 2010,
- having regard to the Communication from the Commission entitled a ‘Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union’ (COM(2010)0573),
- having regard to the 2012 Commission Report on the Application of the EU Charter of Fundamental Rights (COM(2013)0271), and to the accompanying staff working documents,
- having regard to the proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (COM(2008)0426) and to its position of 2 April 2009 on that proposal<sup>1</sup>,
- having regard to the guidelines to promote and protect the enjoyment of all human rights by LGBTI persons adopted by the Council of the European Union at its meeting of 24 June 2013,
- having regard to the European Union Agency for Fundamental Rights report of November 2010 on homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity,
- having regard to the results of the European Union lesbian, gay, bisexual and transgender survey carried out by the Agency for Fundamental Rights (FRA) and published on 17 May 2013,
- having regard to the FRA opinion of 1 October 2013 on the situation of equality in the

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<sup>1</sup> OJ C 241 E, 8.10.2009, p. 68.

European Union 10 years on from initial implementation of the equality directives,

- having regard to its resolution of 24 May 2012 on the fight against homophobia in Europe<sup>1</sup>,
  - having regard to its resolution of 12 December 2012 on the situation of fundamental rights in the European Union (2010-2011)<sup>2</sup>,
  - having regard to its resolution of 14 March 2013 on strengthening the fight against racism, xenophobia and hate crime<sup>3</sup>,
  - having regard to Rule 48 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Women’s Rights and Gender Equality (A7-0000/2013),
- A. whereas the European Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities;
- B. whereas in defining and implementing its policies and activities, the European Union aims to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation;
- C. whereas in June 2013 the Council of the European Union adopted strong guidelines to promote and protect the enjoyment of all human rights by LGBTI persons within the external action of the European Union and will only argue strongly in favour of LGBTI people’s rights if they are protected internally;
- D. whereas the European Union already coordinates its action through comprehensive policies in the field of gender equality through the ‘Strategy for equality between women and men 2010-2015’, in the field of disability through the ‘European Disability Strategy 2010-2020’, and in the field of equality for Roma persons through the ‘EU Framework for National Roma Integration Strategies up to 2020’;
- E. whereas in its ‘Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union’, the Commission has acknowledged the necessity of developing individual policies concerning certain specific fundamental rights on the basis of the Treaties;
- F. whereas in the 2013 EU LGBT survey, the European Union Agency for Fundamental Rights (FRA) found that across the EU in the year preceding the survey one in two LGBT respondents felt discriminated against or harassed on grounds of sexual orientation, one in three were discriminated against when accessing goods or services, one in four were physically attacked, and one in five were discriminated against in employment or occupation;

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<sup>1</sup> Texts adopted, P7\_TA(2012)0222.

<sup>2</sup> Texts adopted, P7\_TA(2012)0500.

<sup>3</sup> Texts adopted, P7\_TA(2013)0090.

- G. whereas the FRA recommended that the EU and Member States develop action plans promoting respect for LGBT persons and protection of their fundamental rights;
- H. whereas in May 2013 eleven Equality Ministers<sup>1</sup> called on the Commission to issue a comprehensive EU policy for LGBT equality, and ten Member States have already adopted or are discussing similar policies at national and regional levels;
- I. whereas the European Parliament has asked ten times for a comprehensive European Union policy instrument for equality on grounds of sexual orientation and gender identity;

### ***General considerations***

- 1. Strongly condemns any discrimination on the basis of sexual orientation and gender identity, and strongly regrets that the fundamental rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people are not yet always fully upheld in the European Union;
- 2. Believes that the European Union currently lacks a comprehensive policy to protect the fundamental rights of LGBTI people;
- 3. Acknowledges that the responsibility to protect fundamental rights lies jointly with the European Commission and Member States; calls on the Commission to use its competences to the fullest extent, including facilitating the exchange of good practices among Member States; calls on Member States to fulfil their obligations under EU law and under the Council of Europe Recommendation on measures to combat discrimination on grounds of sexual orientation or gender identity;

### ***Roadmap contents***

- 4. Calls on the European Commission, Member States and relevant agencies to work jointly on a comprehensive policy to protect the fundamental rights of LGBTI people over a period of five to ten years, i.e. a roadmap, a strategy or an action plan featuring the themes and objectives hereunder;

#### **A. Horizontal actions to implement the Roadmap**

- (i) The Commission should work to secure existing rights throughout its work and across all domains in which it is competent by mainstreaming issues linked to the fundamental rights of LGBTI people in all relevant work – for instance when drafting future policies and proposals or monitoring the implementation of EU law;
- (ii) The Commission should facilitate, coordinate and monitor the exchange of good practice among Member States via the open method of coordination;
- (iii) Relevant European Union agencies, including the European Union Agency for Fundamental Rights (FRA), the European Institute for Gender Equality (EIGE), the European Foundation for the Improvement of Living and Working Conditions (Eurofound), the European Police College (CEPOL) and the

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<sup>1</sup> Austria, Belgium, Croatia, Denmark, Finland, France, Italy, Luxembourg, Malta, the Netherlands, Sweden.

European Asylum Support Office (EASO), should mainstream issues related to sexual orientation and gender identity in their work, and provide the Commission and Member States evidence-based advice on the fundamental rights of LGBTI people;

- (iv) Together with relevant agencies and Eurostat, the Commission and Member States should regularly collect relevant and comparable data on the situation of LGBTI persons in the EU;
- (v) Together with relevant agencies, the Commission and Member States should support and promote training and capacity-building for national equality bodies, national human rights institutions and other organisations tasked with the promotion and protection of the fundamental rights of LGBTI persons;
- (vi) Together with relevant agencies, the Commission and Member States should seek to make citizens aware of the rights of LGBTI persons.

**B. General provisions in the field of non-discrimination**

**C. Non-discrimination in employment**

**D. Non-discrimination in education**

**E. Non-discrimination in health**

**F. Non-discrimination in goods and services**

**G. Action specific to transgender and intersex persons**

**H. Citizenship, families and freedom of movement**

**I. Freedom of assembly and expression**

**J. Hate speech and hate crime**

**K. Asylum**

**L. Enlargement and external action**

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5. Instructs its President to forward this resolution to the Council of the European Union, the European Commission, the European External Action Service, the governments and parliaments of Member States, all agencies cited herein, and the Council of Europe.

## EXPLANATORY STATEMENT

The European Union has the obligation to combat discrimination when defining and implementing its activities (Article 10 TFEU). This obligation is materialised by existing comprehensive policies to combat discrimination based on sex (through the Strategy for equality between women and men 2010-2015), disability (through the European Disability Strategy 2010-2020), and affecting Roma people (through the EU Framework for National Roma Integration Strategies up to 2020).

The European Parliament is of the opinion that such a comprehensive policy instrument is required to combat discrimination on grounds of sexual orientation and gender identity. Since January 2011, it has made this request ten times in various resolutions, asking the European Commission to produce a roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity. This report sets out a draft canvas for such a comprehensive policy.

There are three strong legal, political and policy cases for such a roadmap. **Legally**, the European Union is required to combat discrimination when defining and implementing its policies and activities (Art. 10 TFEU), and prohibits discrimination on any ground (Art. 21 Charter of Fundamental Rights). This legal requirement is already materialised by comprehensive policies in the field of gender equality, disability and Roma integration; it must now be materialised for grounds of sexual orientation and gender identity.

**Politically**, support exists in the European Parliament as well as among Member States, eleven of which have officially called for such a roadmap in May 2013. The European Commission has responded that actions were already undertaken to ensure equality on grounds of sexual orientation and gender identity, but these actions are substandard compared to the comprehensive approach other groups benefit from. Furthermore, Member States are increasingly adopting similar plans at national level (Belgium, France, Italy, the Netherlands, United Kingdom, and under discussion in Latvia), as part of wider national equality plans (Croatia, Portugal), or at regional levels (Belgium, Germany, Spain).

Finally, **policy** data show such a roadmap is necessary. The LGBT survey published by the Agency for Fundamental Rights in 2013 indicates that **47% of LGBT people felt discriminated against or harassed in the last year**, with lesbian women (55%), young people (57%) and poorer LGBT people (52%) the most likely to be discriminated against; **26% were attacked or threatened with violence** because of their sexual orientation or gender identity (35% among transgender people); **only 10% feel confident enough to report discrimination to the police**, and only 22% report violence or harassment; **32% are discriminated against in housing, education, or when accessing healthcare, goods or services**; and **20% are discriminated against in employment or occupation** (29% among transgender people).