

ATTACHMENT 1

NATIONAL CONTEXTS ABOUT LGBTQI+ RIGHTS IN PARTNER COUNTRIES

France

Homophobia and same-sex relations rights

When addressing LGBTQI+ issues, most reactions are that “homophobia is over” since same-sex marriage was voted in 2013. However, the same-sex marriage law showed in plain light that homophobia was very well present in France as homophobic aggressions increased by 78% that same year, soaring to almost one physical aggression every two days³⁴. If the rate of aggression diminished in the following years, it has gone back up since 2018.

Regarding parenthood, the law maintains stepchild adoption for same-sex couples, which is not a requirement for heterosexual couples who use donor gametes. Cost coverage for in vitro fertilization was extended to lesbians and single women in 2021, but only mentioning ‘women’ explicitly, excluding many trans and intersex people³⁵.

Transgender and intersex rights

Trans people are subjected to highly discriminating policies. Before 2018, they had to be forcibly sterilized before claiming transition (access to hormones, to change their civil status among others). Transgender issues are still ignored by most policies. For example, trans people are still excluded from parenthood. When policies exist to protect them, in practice they are contradicted. For example, the association XY Media reported some municipalities systematically refuse the change of civil status of trans people if they do not provide a notice from a psychiatrist, a demand which is not legal.

Intersex people rights remain a major issue. If conversion therapies were banned by a 2021 law, most recent laws failed to ban on intersex genital mutilation. Only genital surgeries are banned, but not hormone therapies and gonadectomies³⁶.

Greece

Homophobia and same-sex relations rights

The legal framework in Greece has established laws regarding equality and non-discrimination because of sex characteristics, sexual orientation, and gender identity (employment, goods & services, law, blood donations, etc). However, there is no equality regarding education and health. Additionally, most family laws exclude LGBTQI+ people. For instance, same-sex couples do not have the right to marriage, only registered partnerships without the right of adoption.

³⁴ SOS Homophobie, Annual report, May 2014.

³⁵ ILGA-Europe, Annual Review 2021, February 2022.

³⁶ ILGA-Europe, Annual Review 2021, February 2022.

Regarding homo/transphobia, even though laws are supposed to protect LGBTQI+ rights, it still exists. Discrimination, homophobic and transphobic harassment, attacks, statements, and threats are not over³⁷.

Transgender and intersex rights

Greece does not recognize non-binary people or self-determination in general, while intersex people are excluded from many parts of the legislation system. For example, there is no prohibition on medical intervention.

It is important to mention that government agencies do not apply the established legal framework. For example, in January 2021, the Athens Magistrate Court denied a trans man's request to have his family name changed. The man's application to change his first name and gender marker was approved, but his male name will now appear next to a female family name, violating his right to private life³⁸. Finally, conversion therapies still exist.

ITALY

Homophobia and same-sex relations rights

In Italy, the legal framework in terms of equality and non-discrimination only covers explicitly the field of work and blood donations. At national level, there is no other law explicitly contrasting discrimination based on SOGI in other field, however 7 regions do have a dedicated law and the article 3 of the Constitution of the Italian Republic establishes the principle of formal and substantial equality: although sexual orientation is not explicitly mentioned, the notion of "personal conditions" as worded in the law has always received a very extensive interpretation in the jurisprudence.

Italy has a law on registered partnership, however there is no marriage equality and adoption by same-sex couple is not automatically permitted.

Italy does not have a hate crime law that explicitly covers all bias-motivated crimes based on sexual orientation, gender identity, gender expression and sex characteristics.

Transgender and intersex rights

In terms of legal gender recognition, there are legal and administrative measures in place, including for minors. On the other hand, medical interventions on intersex minors are not prohibited.

There are no limitations in terms of freedom of expression and there is enough protection for public events and human rights defenders. Finally, laws are in place to ensure asylum to people seeking protection because of their sexual orientation and gender identity³⁹.

³⁷ ILGA-Europe, Annual Review 2021, February 2022.

³⁸ ILGA-Europe, Annual Review 2021, February 2022.

³⁹ ILGA-Europe, Annual Review 2021, February 2022.

PORTUGAL

Homophobia and same-sex relations rights

Since the decriminalization of homosexuality in 1982, Portugal has adopted a series of anti-discrimination laws. It is one of the few countries in the world whose Constitution stipulates the ban on discrimination based on sexual orientation. Same-sex marriage was recognized by the law in 2010. The right to adoption for same-sex couples was enshrined in 2016. Same-sex relationships seem more and more accepted by the population, as 74% of the Portuguese population supported same-sex marriage in 2019.

Most recent debates focused on blood donations. The deferral period for men who have sex with men and want to donate blood was abolished in 2021. LGBTQI+ discrimination in the context of blood donations was further legislated against throughout 2021.

Transgender and intersex rights

In 2011, a gender identity law was adopted to simplify the process of sex and name change for transgender people. Regarding gender recognition, a 2018 law introduced the right to self-determination of the identity of gender and gender expression and the protection of each person's sexual characteristics.

However, effective protection of trans and intersex children and youth remains a loophole. Civil society organizations are pushing the Parliament to act on this matter.

Romania

Homophobia and same-sex relations rights

2021 marks the 20 years anniversary since the decriminalization of homosexuality in Romania. Since, the country has introduced several anti-discrimination laws and penalized homophobic hate crimes. LGBT communities have become more visible in recent years. However, the majority of the population remains hostile to LGBTQI+ rights and it seems that the country does little to act upon it.

In 2022, the Senate of Romania passed a bill banning "gay propaganda" in schools and a bill banning the discussion of homosexuality and gender identity in public spaces.

The recognition of same sex couples is a major issue, though in violation of EU law. As the country keeps ignoring European law, the European Commission started a pre-infringement procedure against Romania in 2020. Several rulings from the European Court of Human Rights assess that Romanian authorities fail to offer adequate protection and to effectively investigate homophobic and transphobic hate crimes.⁴³

As such, Romania was in 2022 ranked 26 out of 27 EU countries for LGBTQI+ rights protection – behind all EU countries except Poland.⁴⁴

⁴⁰ Eurobarometer opinion survey, 2019.

⁴¹ ILGA-Europe, Annual Review 2021, February 2022.

⁴² See, for example, COMAN and Others v. Romania (2018).

⁴³ See, for example, M.C and A.C v. Romania judgement (2016); ACCEPT Association and Others v. Romania (2021).| ⁴² See, for example, M.C and A.C v. Romania judgement (2016); ACCEPT Association and Others v. Romania (2021).

⁴⁴ Rainbow Europe, Country Ranking, May 2022.

Transgender and intersex rights

Romania lacks a legal framework for legal gender recognition. Violations of the right to private and family life⁴⁵ are common place⁴⁶.

Access to hormone replacement therapy remains limited and unsafe, with pharmacies only providing a limited number of options for testosterone and oestrogen treatment. Since 2021, the law criminalizes the possession, commercialization and purchase of testosterone. The trans community in Romania relies on websites to order hormones from abroad, due to the lack of accessible and affordable supplies⁴⁷.

⁴⁵ Article 8 of the European Convention on the right to private and family life.

⁴¹ See, for example, X and Y v Romania case before the European Court of Human Rights.

⁴² ILGA-Europe, Annual Review 2021, February 2022.