



**Council of the
European Union**

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**SOC 81
GENDER 13
ANTIDISCRIM 13
FREMP 34**

NOTE

From: Permanent Representatives Committee
To: Council
Prev. doc.: 6230/16 SOC 77 GENDER 11 ANTIDISCRIM 11 FREMP 31
Subject: Response to the Commission's List of actions to advance LGBTI equality
- Draft Council Conclusions

The Presidency has tabled a set of draft Council Conclusions entitled "Response to the Commission's List of actions to advance LGBTI equality".

At its meeting on 26 February 2016, the Committee of Permanent Representatives reached a broad measure of agreement on the text as attached. After the meeting, at the request of PL and HU, and following consultation with all delegations, the Presidency added a new paragraph 13 to the text.

LT, LV, HU and PL have maintained general scrutiny reservations.

The Council is invited at its session on 7 March 2016

- to address the outstanding scrutiny reservations; and
- to adopt the draft Conclusions as attached.

**Response to the Commission's
List of actions to advance LGBTI¹ equality
- Draft Council Conclusions**

WHEREAS

1. Respect for human rights, including the rights of persons belonging to minorities, is a founding value for the Union, as stated in the Treaty on European Union and in the Charter of Fundamental Rights of the European Union.
2. It is important to promote common values, such as respect for human rights, as well as a common understanding that human rights are universal and apply to all, irrespective of, *inter alia*, sexual orientation or gender identity.
3. The Treaty on the Functioning of the European Union (TFEU) provides that the Union shall aim in all its activities to eliminate inequalities and to combat discrimination on various grounds, including sex and sexual orientation, when defining and implementing its policies and activities² and empowers the Council to take action to combat discrimination on those grounds.³
4. This set of Conclusions builds on previous work and political commitments voiced by the European Parliament, the Council, the Commission and other relevant stakeholders, including the documents listed in Annex I.
5. Article 21 of the Charter of Fundamental Rights of the European Union explicitly prohibits any discrimination based on sex and sexual orientation.

¹ Lesbian, gay, bisexual, transgender and intersex persons.

² Article 8 and 10 TFEU.

³ Article 19 TFEU.

6. Discrimination on the grounds of sexual orientation is also prohibited under Union law in the field of employment.
7. The Commission has recently presented a List of actions to advance LGBTI equality which focuses on improving the rights and ensuring the legal protection of LGBTI people and their families in key areas of Union competence; strong monitoring and enforcement of existing rights of LGBTI people and their families under Union law; reaching citizens and fostering diversity and non-discrimination; supporting key actors responsible for promoting and advancing equal rights for LGBTI people in the Union; figures and facts for policy makers on LGBTI challenges in the Union: data collection and research activities; and external action: LGBTI issues in enlargement, neighbourhood and third countries.
8. According to a survey conducted by the European Union Agency for Fundamental Rights (FRA), LGBT⁴ persons in the EU face obstacles to enjoying their fundamental rights and are often discriminated against, particularly in areas such as employment, education and access to goods and services. The survey also shows that many LGBT persons are subjected to violence and harassment, frequently in public places. However, cases of discrimination, violence and harassment are rarely reported to the police or other authorities by the victims.

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9. WELCOMES the Commission's commitment to ensure coherence between its List of actions to advance LGBTI equality within the Member States and the Council's Guidelines to promote and protect the enjoyment of all human rights by LGBTI persons in the context of the EU's external policy.

⁴ Lesbian, gay, bisexual and transgender persons.

10. CALLS ON THE EUROPEAN COMMISSION to implement the measures outlined in its List of actions to advance LGBTI Equality without delay, to keep the Member States regularly informed of the progress made through the High Level Group on Non-Discrimination, Equality and Diversity and to pay attention to the fundamental rights of LGBTI persons when carrying out the fundamental rights check of any proposed policy measure.
11. INVITES THE EUROPEAN COMMISSION to report on the progress made in the implementation of its List of actions to advance LGBTI equality by the end of 2016 and yearly thereafter.
12. CALLS ON THE EUROPEAN COMMISSION to step up efforts in the field of comparative data collection on the discrimination of LGBTI persons in the EU, in the field of targeted awareness-raising activities in key areas, such as employment, education, health and sports, and access to goods and services, and in the field of knowledge of rights and the fight against under-reporting of discrimination incidents. Policies to combat discrimination based on sexual orientation or gender identity fall within the broader context of equal treatment and should also take into account the specific situation of LGBTI people.
13. CALLS ON THE EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS to further study the situation of LGBTI people by compiling high-quality statistics based on the most reliable methods.
14. STRESSES that, when implementing the actions to advance LGBTI equality, the Commission should continue to cooperate with the Member States, as well as with FRA and other relevant EU agencies, civil society and relevant international organizations including the Council of Europe, the OECD and the UN.
15. CALLS ON THE EUROPEAN COMMISSION AND THE MEMBER STATES to reinforce and continue to support the action of institutional mechanisms, including national Equality Bodies, which are crucial instruments for the advancement of LGBTI equality, as well as that of the European Network of Equality Bodies (Equinet).

INVITES THE MEMBER STATES

16. To work together with the European Commission to implement its List of actions to advance LGBTI equality, making full use of the High Level Group on Non-Discrimination, Equality and Diversity to discuss relevant issues and explore ways to accelerate progress; and
 17. To take further action to combat discrimination on the grounds of sexual orientation and gender identity and to conduct awareness-raising to advance LGBTI equality.
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References

1) European Parliament

European Parliament resolution of 8 September 2015 on the situation of fundamental rights in the European Union (2013-2014) (2014/2254(INI))

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

2) Council

Guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex persons (11153/13)

3) Commission

List of actions by the Commission to advance LGBTI equality
http://ec.europa.eu/justice/discrimination/files/lgbti_actionlist_en.pdf

4) European Union Agency for Fundamental Rights

Protection against discrimination on grounds of sexual orientation, gender identity and sex characteristics in the EU -- Comparative legal analysis -- Update 2015

<http://fra.europa.eu/en/publication/2015/lgbti-comparative-legal-update-2015>

European Union lesbian, gay, bisexual and transgender survey, 2014

http://fra.europa.eu/sites/default/files/fra-eu-lgbt-survey-main-results_tk3113640enc_1.pdf