

Victim Support Europe Contribution

ROADMAP FOR THE LGBTI+ EQUALITY STRATEGY



About Victim Support Europe

Victim Support Europe (VSE) is the leading European umbrella organisation advocating on behalf of all victims of crime, no matter what the crime, no matter who the victim is. VSE represents 60 national member organisations, providing support and information services to more than 2 million people affected by crime every year in 30 countries.

Founded in 1990, VSE has been working for almost 30 years for a Europe, and a world, where all victims have strong victims' rights and services, whether they report the crime or not.

We work towards this mission through advocacy to improve European and international laws, through research and knowledge development and through capacity building at the national and local level.

Summary of VSE contribution

Over the last thirty years, policies and rights for victims have developed on the international and European stage. Much progress has been seen including through the adoption of a range of EU legislation benefiting victims, including LGBTI+ persons. Despite the progress, the EU and Member States still need to affirm their commitment to equality and fundamental rights for the LGBTI+ community. Against this background, Victim Support Europe strongly welcomes the European Commission proposal for an EU LGBTI+ Equality Strategy as a first step in eradicating violence and discrimination based on gender identity and/or sexual orientation.

VSE supports the overall approach of the Roadmap proposed by the European Commission on the EU LGBTI+ Equality Strategy whilst highlighting **some key priorities**:

- **Full and effective implementation of EU legislation related to victims' rights and issues:** despite wide ranging legislation, many rights are not operational or are far from accessible and well-functioning for LGBTI+ victims of crime. The EU must push for the full and effective implementation of existing laws.
- **Ensure support and protection of LGBTI+ people victims of crime:** the EU must act to ensure that in every Member State victim support services exist across those countries, that they operate effectively and that the public and victims are informed of these services and have easy access to them; the EU must act to ensure that LGBTI+ victims are supported in seeking justice and are properly protected in the justice system.
- **Training and awareness raising:** success in the victims' field requires a fundamental shift in attitudes particularly amongst law enforcement and justice officials but also across society as a whole toward the LGBTI+ community.
- **Cooperation and coordination:** the EU should encourage and support cooperation between different stakeholders such as EU institutions and agencies, States authorities and civil society. Cross-border cooperation should also be a priority.
- **Ensure EU funding:** the EU must ensure sustainable and sufficient funding for civil society and victim support organisations in particular, and push Member States to support civil society.
- **Collection of data:** the EU should improve the collection of disaggregated data at the EU and national level on LGBTI+ victims of crime.

Introduction

LGBTI+ persons in Europe and around the world continue to experience high levels of discrimination, harassment, hate speech and hate crime, to the detriment of the full enjoyment of their fundamental rights. Despite improvement in legislation at EU and national level related to the protection and public acceptance of LGBTI+ people¹, there still is plenty of room for improvement to achieve equality and non-discrimination in Europe and globally.

The first EU LGBTI+ Equality Strategy takes place at a time when the **erosion of the human rights of LGBTI people along with the rise of anti-LGBTI hate rhetoric in countries across Europe is putting European democracy at risk and eroding core principles of the European Union** – human rights, equality, freedom and human dignity. In recent years we have seen a rise in violence against LGBTI+ people, with increase in online hate speech, as well as physical attacks against LGBTI+ people² and there is a concern that the situation might deteriorate further. What is even more worrying is the official position of some EU Member States against LGBTI+ people and their fundamental rights.

Against this background, **VSE strongly welcomes the European Commission proposal for an EU LGBTI+ Equality Strategy** as a welcome first step in eradicating violence and discrimination based on gender identity and/or sexual orientation. However, understanding that there is a number of strategic instruments being developed or implemented at the present moment, it is crucial that this new Strategy is linked to other EU Strategies³. Clear references need to be made to the interlinking to the other strategies, with clear guidance on how this will be translated concretely through effective cooperation among different DGs and policy frameworks.

1. Full and effective implementation of EU legislation

Crime has a significant impact on millions of people in Europe, including the LGBTI+ community. The European Union has acknowledged this and has adopted a number of EU laws related to victims' rights which can benefit LGBTI+ people⁴. Despite wide ranging legislation, many of these rights are not operational or are far from accessible and well-functioning. It is therefore critical that the **existing laws are fully and effectively implemented**.

¹ ILGA-Europe Rainbow Map, <https://www.ilga-europe.org/resources/news/latest-news/rainbow-map-2020-points-make-or-break-moment-lgbti-rights-europe>

² Annual Review of the human rights situation of lesbian, gay, bisexual, trans and intersex people in Europe and Central Asia, ILGA Europe, 2020, <https://www.ilga-europe.org/sites/default/files/Annual%20Review%202020.pdf>

³ Such as the Gender Equality Strategy, the EU Victims' Rights Strategy, the EU Strategy to fight sexual child abuse and the EU Child Rights Strategy.

⁴ In particular : 2000/43 Race Equality Directive, Equal Treatment Directives 2006/54 and 2004/113, Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, Council Directive 2004/80/EC relating to compensation to crime victims, Directive 2011/99/EU on the European Protection Order (EPO), Regulation (EU) No. 606/2013 on mutual recognition of protection measures in civil matters, Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography, Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, Directive (EU) 2017/541 on combating terrorism and the Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

While the EU Victims' Rights Directive aims to ensure rights for all victims of all crimes, it recognises the **necessity to provide particular protection to vulnerable groups of people, including LGBTI+ people**. The Directive, therefore, creates a legal environment in which it is of utmost importance to insist that LGBTI+ people victims of crime are not only provided with the support they need, but also with protection, recognition, access to justice and compensation.

This is critical to ensure LGBTI+ victims of crime access to their rights under EU law. We encourage the European Commission to **follow up on infringement procedures** against Member States reluctant to abide by their obligations under the different EU legislations. To be successful, this also requires setting out best practices and determining where legislation is not sufficiently clear to achieve objectives and how such legislation needs to be amended.

The European Commission should also continue to actively work towards the adoption of the **horizontal anti-discrimination directive** and assess alternative initiatives to ensure that there is no longer a hierarchy in legal protection against discrimination within the EU.

LGBTI+ people and organisations should be directly consulted and involved in the preparation, implementation and monitoring of EU policies and programmes that concern them.

2. Support and protection of LGBTI+ people victims of crime

Crime affect millions of people every year in Europe. LGBTI people face greater risk of falling victim of crime and to face secondary victimisation. The European Commission should focus on the following challenges: access to victim support services, tackle the issue of underreporting, countering hate crime and hate speech, ensure effective and safe participation of victims in justice, and ensure the physical protection of LGBTI+ victims of crime.

Access to victim support services

For those who are identified as victims and require support, in many EU countries **generic and specialist victim support services do not exist or are insufficient, are not accessible or are not of a high quality**. The consequence being that many victims are not able to cope and recover from the trauma.

The European Commission should ensure that victim support services exist and are accessible in all EU Member States. All victims of crime should have access to free, confidential and professional support services. Every victim will react differently to a crime and their needs might be different, the support offered should therefore be tailored to each victim's specific needs. Generic and specialist services should be in place to offer tailored support to victims.

Victim support services need to be accessible to all victims of crime, in particular transgender people who often face difficulties in accessing and receiving support.

Victim support organisations should also be provided with all the tools to better support victims. Against this background, we call on the European Commission to **ensure full access to high quality generic and specialist victim support services for all victims of crime**. Actions should focus in particular on:

- Supporting the **establishment and development of support services** in Member States to ensure such services are fully accessible. This means the establishment of generic and specialist victim support services in all EU Member States but also the development of online support services such as 116 006 helpline, chat, email, etc.
- Ensuring **high quality support services** guaranteed by standards and evaluation schemes. Victim support services need to be of a satisfactory level of quality, with the introduction of a system of standards and accreditation to ensure that victims are well taken care of and to reinforce the trust between the national authorities, support services and the general public. These standards should be developed by experts in the field such as victim support organisation. Standards should not be developed in such a way as to impose undue administrative pressures on organisations, which could effectively force many smaller NGOs out of the field. **The EU must encourage civil society providing support of victims.**
- Developing tools that help **connect victims to the services** they need, including through effective referral mechanisms between police and victim support services, improved co-ordination and networking between support organisations, awareness raising campaigns on victims' rights and services, and online support (helplines, chat, emails...)
- Exploring **new psychosocial support techniques and therapies** and improving existing ones. Cutting edge technologies developed in other sectors could be adapted to the support victims, such as virtual and augmented reality. EU wide support for the development of state of the art therapies will ensure not only the best is available but that it is accessible to all.

Tackle the issue of underreporting

A large proportion of LGBTI+ victims **never report the crime or never reach the services** they need because of barriers to coming forward, such barriers include: hostility of the police, fear of authorities reaction, fear of discrimination, fear of retaliation, non-accessibility to reporting mechanisms, lack of protection measures in place after the reporting, etc. LGBTI people are one of the vulnerable groups which have historically experienced hostility from the law enforcement institutions. This situation has considerably improved in some countries; but in others there still is a lack of mutual trust and confidence between LGBTI+ victims and law enforcement authorities. The European Commission should encourage Member States to have different sorts of reporting mechanisms available other than police (anonymous reporting, online report, etc.). The European Commission should also support its Member States to build and maintain trust between the LGBTI+ community and law enforcement authorities. LGBTI+ victims of crime should be empowered and encouraged to come forward to report the crime and this can be done through training of staff receiving complaints and information campaign about LGBTI's rights.

Countering hate crime and hate speech

Despite advances in recognition of the human rights of LGBTI+ people, including in terms of social acceptance as shown in the 2019 Eurobarometer, LGBTI+ people across Europe continue to experience discrimination, hate and violence⁵. The European Commission and Member States should **ensure that sexual orientation, gender identity, gender expression and sex characteristics are recognised as bias-motivations** and that LGBTI-phobic hate crimes or hate speech are criminalised across the EU. The European Commission needs to push Member States to close the gaps in legal protection and to make specific recommendations for ways forward to address the uneven protection across the EU, including new legislative proposals.

With the increase use of new technology and the Internet, some crimes have move from the offline world to online platforms. The LGBTI community if particularly targeted by hate speech online. IT companies also play an important role in countering hate speech online. The European Commission should continue and expand its existing work to ensure **commitment by IT companies to the Code of Conduct on Countering Illegal Hate Online**⁶, and bring different stakeholders together to share good practices. VSE would also like to express our concern about the lack of action from social media companies in taking down and tackling online hate speech on their platforms. Member States should be tackling hate speech in a way which protects online freedom and rights of all on Internet and which protects the values of a democratic society.

Ensure effective and safe access and participation in justice

Overcoming barriers in the **accessibility of justice** and support services is a major priority that the EU and Member States should look into. Actions and procedures should be put in place to ensure that victims of specific groups are treated with respect, that they have access to justice according to their specific needs, and that professionals use understandable language. For those who report the crime or seek help, many are subject to secondary victimisation by a wide variety of actors both inside and outside the justice system, and by society itself – due to lack of knowledge and understanding, lack of protection, poor treatment, and lack of co-ordinated efforts.

Ensuring **high quality of communication** between justice practitioners and victims through respectful treatment and accessible communication. Legal jargon can be particularly complicated to understand for someone who has not had experience with justice system before, or for victims with disabilities.

Promoting and developing **innovative practices to improve justice/court user experiences**, maximise access to rights and reduce secondary victimisation, such as using video recording of victims' testimonies, having separate waiting room for the victim and the offender, allowing facility dogs in the courtroom, etc.

⁵ A long way to go for LGBTI equality, FRA, 2020, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-lgbti-equality_en.pdf

⁶ The EU Code of conduct on countering illegal hate speech online, https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/eu-code-conduct-countering-illegal-hate-speech-online_en

Physical protection

We are fully supportive of the Commission's decision to put in place **minimum standards for physical protection** included in the EU Victims' Rights Strategy. Protection measures should be promoted for LGBTI+ people victims of crime.

The Victims' Rights Directive requires that victims receive an **individual assessment**. This should identify their specific protection needs, taking into account their personal characteristics, including gender identity or expression and sexual orientation. Law enforcement authorities should receive appropriate training in order to identify LGBTI as victims and assess their specific needs and put the relevant protection measures in place.

3. Training and awareness raising

Success in the victims' field requires a **fundamental shift in attitudes** particularly amongst law enforcement authorities and justice officials but also across society as a whole. This means developing training and education at all levels from primary school up to university, vocational training and lifelong learning.

Training and education should improve knowledge and understanding **on safety, impact of crime, needs of victims, how to address needs and the soft skills** required to work with victims or support them in a general sense. We believe that there are different aspects and different recipients of training that are important to highlight here:

First, the EU and Member States should develop actions which ensure that **the general population** is educated about crime issues and victimisation issues. Since every person can have a role in helping victims, society as a whole needs more training and knowledge on how to do this. One example is the development of EU psychological first aid training which can be provided to members of the public which they could use to interact with anybody who has been traumatised e.g. victims, someone in a road accident, someone who is diagnosed with an illness. In addition, it is important to start developing education systems to include victims' issues and victimisation in curricula of professions where individuals can be in contact with victims: law degree, teacher degree, medical degree, etc.

Building **greater awareness in society** of its role in helping victims and how it can help, can already have an important impact. For example, incorporating victim oriented themes into school education, into private sector training, into community centres and sports clubs can be a direct action to increase knowledge and awareness. The objective is develop a community wide **self-resiliency and ability to provide basic, non-harmful assistance** to people before professionals arrive at the scene and when helping victims within the social support network. Ultimately, our communities should be **informed, resilient and caring** about victims and victimisation issues.

In some cases, the network alone will not be sufficient or will not be able to offer certain forms of assistance the victim needs. In other cases, a victim may not have such a supportive network and will need a range of professional help.

Second, the EU and Member States should ensure that **professionals working with the general population** receive training and education related to victims and victimisation, including identifying and supporting those victims. This can be applied for example to teacher who should be able to recognise violence, bullying or discrimination against a child.

Third, the EU and Member States should ensure that **professionals who engage with victims** as part of their job receive appropriate training and education, in particular on areas related to understanding victimisation and its impact, effective and empathetic communication with victims, respectful and appropriate treatment, secondary victimisation. It is crucial that these professionals understand the need specific needs of LGBTI+ victims and are able to respond to those needs.

Finally, the EU and Member States should ensure that **professionals who engage with victims** receive appropriate training and education about strengthening themselves and keeping them safe, in particular **to avoid vicarious trauma**.

The European Commission should make sure that the content of the training does not only include legal information but also **soft skills, communication with victims, concept of victimisation and its impact**. The European Commission should support Member States to improve the capacity of professionals working with victims of crime to engage with LGBTI+ people in a respectful manner. The training should include specialised subjects such as identifying and including elements of bias motivation in reporting, investigation and prosecution, and providing SOGIGESC-sensitive healthcare and other support to victims of hate crime. Regular monitoring should be put in place to ensure that the training are delivered and used in all parts of all Member States. It is crucial that victims of crime, and LGBTI+ people in particular, are treated with respect and in a non-judgemental manner.

We encourage the European Commission to continue its efforts to **develop communication campaigns** with several objectives: improve the social acceptance of LGBTI+ persons and make societies more open and inclusive throughout Europe, combat the negative stereotypes that LGBTI+ persons endure and which result in discrimination, and raise awareness about the rights of LGBTI+ persons, in particular in the areas of homophobia in sports, young LGBTI, bullying at school.

4. Cooperation and coordination

Victimisation impacts many areas of a person's life and therefore victims' issues cut across multiple fields requiring mainstreaming across all those areas such as: work, education, economy, health, etc. Unfortunately, there is a clear lack of coordination at the national and EU level on how victims' issues are pursued in these areas.

The **High Level Group on Non-discrimination, Equality and Diversity** can be a useful space for exchange of good practices and for bringing together a wide range of different stakeholders of equality work to come together to share good practices, i.e. civil society, academics, lawyers, policymakers, and representatives of specific sectors, including trade union actors. The Group can be the place to work with all Member States on effective implementation of existing anti-discrimination protections on EU and national level, as well as how to close existing gaps effectively to ensure full and equal protection for all EU citizens across the EU.

The Commission needs to continue cooperating with the EU Fundamental Rights Agency, EIGE and other relevant EU agencies, as well as civil society and relevant international organisations including the Council of Europe, the OSCE and the UN.

Considering the increased mobility of people in the EU and the globalisation of crime, people are more and more becoming a victim of crime in a Member State other than their own, or a victim of a perpetrator living outside their country. Victims of these crimes often face a variety of challenges that leave them particularly vulnerable, such as language barriers, access to information, knowledge of the country's legal and criminal system, cultural barriers, distance between the victims and their support network in their country of residence, and the limited that victims stays in the country where the crime occurred⁷.

The EU should support **cross-border exchange of information and co-operation on individual cases** by supporting referral and coordination of services both at a national and international level. With an increase in mobility, cross-border victimisation issues are also increasing, which requires recognition at a policy level, but also at the level of provision of services to all victims, regardless of where they were victimised or what their needs might be.

The EU should encourage and support **cooperation between State authorities and civil society to deliver services in unison**. While there are some needs of victims which can only be delivered by the state (e.g. justice or protection), there is a range of other needs that can be better catered through a collaboration between different actors for the benefit of all victims. Moreover, societal sector (social services, educational institutions, healthcare providers etc.) and private sector (employers, insurance companies etc.) need to be involved in the development of a comprehensive societal response to victimisation.

5. Ensure EU funding

VSE wants to express its concern regarding EU funding for civil society and victim support organisations. We welcome EU Commission's effort to keep the Justice programme funding unaffected by the revisions of the EU funding in response to Covid-19 pandemic. However, we continue to insist that more needs to be done to ensure full implementation of victims' rights in the EU and that this will still require more funds to be dedicated to victims' issues. Ensuring support for LGBTI+ victims is crucial in countries where access to national funding is already a real challenge. With the shrinking space of civil society and deterioration of the rule of law in Europe it is even more important for the European Commission to secure funding and support civil society. With increase of crimes reported during the COVID-19 in particular domestic violence, cybercrime and hate crime, victim support services are even more needed than before. The European Commission should therefore also push Member States to ensure funding for victim support services in their country.

In addition, EU funding should continue to **improve the efficiency of administration to minimise burdens on recipients**. Approaches should also minimise the cost burdens on organisations. The higher the contribution requirements on recipients the more difficult it is for civil society organisations

⁷ Cross-border victimisation, Challenges and solutions with respect to the provision of support to victims of crime in a cross-border situation, Victim Support Europe, 2017, available at: <https://victimsupport.eu/activeapp/wp-content/uploads/2017/02/VSE-Cross-border-Victimisation-Report.pdf>

to participate. This runs contrary to broader EU priorities to support civil society. Whilst in some funding programmes e.g. H2020, 125% funding is provided, in other programmes – notably Justice – funding is at the 80-90% level. Equally, the level of funding to those programmes should be adapted so that any reductions in contributions does not reduce the number of projects that can be funded.

6. Collection of data

The EU must work with Member States to press for the **collection of disaggregated data** on victims of crime based on e.g. age, type of crime, residency status, and disability etc. Such data should focus on how rights are implemented and to what extent, whether victims are receiving and able to act on their rights, and what the outcomes and impacts of victim centric actions are. Any disaggregation should not put at risk the rights of victims or fundamental rights to equality and non-discrimination.

The EU should **promote the collection of data** at the national level and support the FRA to continue its LGBTI surveys.

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