

2017

# FREDMUN



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**COUNCIL OF EUROPE**

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CONSEIL DE L'EUROPE

**COMMITTEE STUDY GUIDE**

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# WELCOMING MESSAGE BY THE BOARD

Distinguished Ministers,

It is an honor for the Board of the Council of Europe to warmly welcome you all to the second edition of FREDMUN, which will be held from the 2<sup>nd</sup> to the 5<sup>th</sup> of November in the beautiful island of Cyprus. We are more than confident that each and every one of you, as part of the Council, will meet our expectations through the equal work, the preparation and also the cooperation during the debates. At this point we would like to have the opportunity to briefly introduce ourselves.

## **President**

Mitoulaki Maria



To begin with, I would like to note that it is extremely pleasant the fact that more and more young people are willing to join the MUN world and discuss about crucial issues related to international affairs. As for me, I was born and raised in Athens, Greece. I am twenty three years old and I am a recent graduate of the Department of Sociology, of the Panteion University. As far as my future academic plans are concerned, my next step is the criminology master degree. Concerning my academic interests, I would like to note that I am more than interested in Human Rights, because almost every science is based on human existence, and almost every investigation includes humanity issues in its core. My passion for MUNs began in 2015; since then I have participated in another nine simulations both of the United Nations and the European Organs as a journalist, as a delegate and as a chairperson. In this year's FREDMUN I will have the honor to serve as the President of the Council of Europe and I am extremely excited about it. I am more than glad to admit that simulations are the best way to gain knowledge, meet new people, build a part of your personality and gain unforgettable memories. Hope to meet all of you in Cyprus!

## **Vice-President**

Athanasa Dimitra



Greetings everyone! My name is Dimitra Athanasa. I am a twenty years old student at the department of Law in Aristotle's University of Thessaloniki. It is with great joy and honor that for this year's FREDMUN I will be serving as the Vice President of the Council of Europe. From an early age, I used to have an active role in the world of simulations with international content and as a result I have participated in a great deal of them. Furthermore, I am a contributor at a site's column, writing about international relations and also matters of defense and last but not least I am an active member of the

European Law Students' Association (E.L.S.A.).

Additionally, regarding my hopes and goals for FREDMUN 2017, I am aiming to ensure all of my delegates that it will be a fulfilling experience concerning preparation and debate. I promise to familiarize the ministers with the process and motivate them to participate during the conference.

## **Secretary General**

Nikolaidis Dimitris



Hello Dear Ministers! My name is Dimitris Nikolaidis and I have the great honor to serve as the Secretary General of Council of Europe in FREDMUN 2017. I am twenty-one years old and a third year undergraduate student of the Department of Foreign Languages Translation and Interpreting at the Ionian University in Corfu. I am specialized at Legal, Economic, Political and Technical Translation in Greek, German and English. My main goal is to get involved with diplomacy and foreign languages. I am more than happy to have this position, as it is my first time as a Board member and also to cooperate with Maria and Dimitra. See you all in Cyprus!

The preparation of this Study Guide will assist you to understand this year's topic and also to guide you through the main steps of your preparation, so it is of utmost importance to study it carefully. Individual research is the cornerstone for your effort during the debates of the Council. We are inclined to believe that your contribution in the Council will be satisfactory. We promise to assist you in any issues that may occur and we set ourselves at your disposal for any queries, so feel free to contact us anytime. See you in Cyprus!

## INTRODUCTION TO THE COMMITTEE

"My counsel to Europe can be given in a single word: Unite!" stated Winston Churchill at the end of the Second World War and nearly after the constitution of a cordial alliance between France and Germany<sup>1</sup>. Council of Europe is considered to be the oldest political Organization in Europe. It has been founded on May 5<sup>th</sup> 1949 by the Treaty of London (or the Statute of the Council of Europe), which has been signed by the five Governments Members of the Brussels Treaty (Belgium, France, Luxembourg, the Netherlands and the United Kingdom) and also by the Governments of Denmark, Ireland, Italy, Norway and Sweden<sup>2</sup>. The current structure of the Council is based on 47 permanent members and 5 observers<sup>3</sup>. Nowadays, Council of Europe is considered as an international organization, whose base is located in Strasburg, France.

Council's constitution has three main goals. First of all, it advocates the protection of Human Rights, the pluralistic democracy and the principles of the Rule of Law. The second goal concerns the promotion of the cultural identity and diversity between the European States. As far as the third goal is concerned, Council makes significant efforts, in order to strengthen democratic stability by supporting political, judicial and constitutional reforms<sup>4</sup>. With the aim of achieving all the above, states have to be united through common actions, debates and agreements. At this point, it has to be mentioned that all the European states have the opportunity of the enjoyment of the Council, only if they adhere to the principles of the Rule of Law and only if they fully respect Human Rights and Fundamental Freedoms.

At this point, it is considered extremely necessary to present the structure of the Council. According the Chapter III, Article 10 of the Statute of the Council of Europe<sup>5</sup> the structure is formed by two organs. The first one is the Committee of Ministers, which constitutes the statutory decision-making body and is composed by the Ministers of Foreign Affairs of each member-state<sup>6</sup>. The second one is the Parliamentary Assembly, which is the deliberative organ of the Council of Europe and it consists by 324 members of the parliament from

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<sup>1</sup>Europe, T., Assembly, P., Assembly, O. and Europe, C. (2017). Origins and History of Parliamentary Assembly. [online] Council of Europe Office in Georgia. Available at: <http://www.coe.int/en/web/tbilisi/the-coe> [Accessed 23 Jun. 2017]

<sup>2</sup>Ibid.

<sup>3</sup>ref, C., States, O. and States, O. (2017). Our member States. [online] The Council of Europe in brief. Available at: <http://www.coe.int/en/web/about-us/our-member-states> [Accessed 23 Jun. 2017].

<sup>4</sup>Vm.ee. (2017). The goals and principles of the Council of Europe | Ministry of Foreign Affairs. [online] Available at: <http://www.vm.ee/en/goals-and-principles-council-europe> [Accessed 23 Jun. 2017].

<sup>5</sup>Rm.coe.int. (2017). Cite a Website - Cite This For Me. [online] Available at: <https://rm.coe.int/168030605> [Accessed 24 Jun. 2017].

<sup>6</sup>Ministers, C. (2017). Home. [online] Committee of Ministers. Available at: <http://www.coe.int/en/web/cm> [Accessed 24 Jun. 2017].

the 47 states<sup>7</sup>. Last but not least, it has to be noted that Council of Europe has special agencies like the European Committee on Crime Problems, the European Commission of Human Rights, the European Court of Human Rights, which are responsible for the preservation of the Council's principles on several and exceptional issues<sup>8</sup>.

To sum up, Council of Europe has successfully achieved to deal with a majority of issues of human rights violations, such as the abolition of the death penalty, the strengthening of human rights, the fight against racism, the upholding freedom of expression, the preservation of gender equality and the establishment of child's rights<sup>9</sup>.

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<sup>7</sup>Assembly.coe.int. (2017). PACE website. [online] Available at: <http://assembly.coe.int/nw/Home-EN.asp> [Accessed 24 Jun. 2017].

<sup>8</sup>Law, H. and Chart, M. (2017). Mandate and Organisational Chart. [online] Human Rights and Rule of Law. Available at: <http://www.coe.int/en/web/human-rights-rule-of-law/mandate-organigramme> [Accessed 6 Sep. 2017].

<sup>9</sup>brief, C. and do, W. (2017). Achievements. [online] The Council of Europe in brief. Available at: <http://www.coe.int/en/web/about-us/achievements> [Accessed 24 Jun. 2017].

**Topic B: Respecting sexual orientation  
and tackling the issue of discrimination  
and violence against LGBT+ people**

## INTRODUCTION TO THE TOPIC

It is not a coincidence that this year's topic is about "respecting sexual orientation and tackling the issue of discrimination and violence against LGBTQ+ people". The Council of Europe is the continent's leading human rights organization. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law<sup>10</sup>. The European Court of Human Rights oversees the implementation of the Convention in the member states. The Council of Europe standards and mechanisms seek to promote and ensure respect for the human rights of every individual. These include equal rights and dignity of all human beings, including lesbian, gay, bisexual and transgender (LGBT) persons<sup>11</sup>. During the World Conference of the International Lesbian, Gay, Bisexual, Trans and Intersex Association, the international law professor Mr Muntarhorn stressed out five key-goals – decriminalization, 'depathologization,' recognition of gender identity, cultural inclusion and 'empathization' – could only be delivered with a broad global partnership<sup>12</sup>. All people, he said, were invited to "open their hearts and minds to the beauty of diversity," including the areas of sexual orientation and gender identity<sup>13</sup>. The United Nations continue their work on the support and promotion of LGBT+ Rights by adopting new resolutions, doing anonymous and online surveys, which rely on unverifiable "independent research"<sup>14</sup>, carrying out training programs of the European Youth Centers and of the European Youth Foundation regularly feature human rights education and training activities for multipliers and activists against homophobia. These include study sessions organized in co-operation with youth organizations, such as the International Lesbian, Gay, Bisexual, Transgender, Queer Youth and Student Organization (IGLYO) and the Association of Nordic and Pol-Balt LGBTQ Student Organizations (ANSO)<sup>15</sup>. Their last achievement was the adoption of

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<sup>10</sup>Europe, C. (2017). *Home*. [online] Sexual orientation and gender identity. Available at: <http://www.coe.int/en/web/sogi/home> [Accessed 3 Sep. 2017].

<sup>11</sup>Ibid.

<sup>12</sup>UN News Service Section. (2017). *UN News - UN's new LGBT rights expert urges global partnership to end violence and discrimination*. [online] Available at: [http://www.un.org/apps/news/story.asp?NewsID=55679#.WWj\\_qIjyIV](http://www.un.org/apps/news/story.asp?NewsID=55679#.WWj_qIjyIV) [Accessed 14 Jul. 2017].

<sup>13</sup>UN News Service Section. (2017). *UN News - UN's new LGBT rights expert urges global partnership to end violence and discrimination*. [online] Available at: <http://www.un.org/apps/news/story.asp?NewsID=55679#.WV6YLIjyIU> [Accessed 6 Jul. 2017].

<sup>14</sup>LifeSiteNews. (2017). *UN agency promotes 'LGBT rights' for students*. [online] Available at: <https://www.lifesitenews.com/news/unesco-promotes-lgbt-rights-for-children> [Accessed 3 Sep. 2017].

<sup>15</sup>Themes, H. and Intolerance, D. (2017). *Discrimination and Intolerance*. [online] Available at: <http://www.coe.int/en/web/compass/discrimination-and-intolerance> [Accessed 3 Sep. 2017].

the Resolution about “Protection against violence and discrimination based on sexual orientation and gender identity” on 30<sup>th</sup> June 2016<sup>16</sup>.

The present guide analyses fundamental LGBT+ issues. The first one is about the violence which LGBT+ people use to receive. Every year mass media make attacks known against homosexual people. These people are stigmatized every day. From the working environment till school homophobia is still alive. Homosexual discrimination and stigma still harms people, particularly youth, who identify as homosexual. LGBT+ people are still fighting for equality and rights. They want to have equal rights with heterosexual people in marriage and children adaption. The United Nations have already set specific guidelines which are included in the Sustainable Development Goals and mainly what concerns the topic under discussion in Goal No 5<sup>17</sup>.

## **DEFINITION OF KEY TERMS**

### *Gender Identity*

Since gender is a social construct, an individual may have a self-perception of their gender that is different or the same as their biological sex. Gender identity is an internalized realization of one’s gender and may not be manifested in their outward appearance (gender expression) or their place in society (gender role). It is important to note that an individual’s gender identity is completely separate from their sexual orientation or sexual preference<sup>18</sup>.

### *Gender reassignment*

Another way of describing a person’s transition. To undergo gender reassignment usually means to undergo some sort of medical intervention, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender. Gender reassignment is a characteristic that is protected by the Equality Act 2010, and it is further interpreted in the Equality Act 2010 approved code of practice. It is a term of much contention and is one that Stonewall's Trans Advisory Group feels should be reviewed<sup>19</sup>.

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<sup>16</sup>Ohchr.org. (2017). OHCHR | LGBT UN Resolutions. [online] Available at: <http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBTUNResolutions.aspx> [Accessed 22 Sep. 2017].

<sup>17</sup>UNDP. (2017). *Goal 5: Gender equality*. [online] Available at: <http://www.undp.org/content/undp/en/home/sustainable-development-goals/goal-5-gender-equality.html> [Accessed 14 Jul. 2017].

<sup>18</sup>Wearefamilycharleston.org. (2017). *LGBT A-Z (Glossary)*. [online] Available at: <http://www.wearefamilycharleston.org/lgbt-a-z-glossary/> [Accessed 1 Jul. 2017].

<sup>19</sup>Stonewall. (2017). *Glossary of terms*. [online] Available at: <http://www.stonewall.org.uk/help-advice/glossary-terms> [Accessed 1 Jul. 2017].

## *Homophobia*

A range of negative attitudes and feelings toward homosexuality and LGBT people. It can be expressed as antipathy, contempt, prejudice, aversion, or hatred, may be based on irrational fear, and is sometimes related to religious beliefs. Prejudice is a more accurate description.

## *LGBTQQIA*

It is the acronym including all types of sexuality. It refers to Lesbian, Gay/Gender Neutral/Gender Queer, Bisexual/Bigender, Transgender/Transvestite/Transsexual, Queer/Questioning, Intersex, Asexual/Ally/Androgynous. Similar acronyms are the, LGBT+, LGBTQ, TBLG

## *Asexual*

Someone who does not feel attracted by the other genders, male or female, or does not have sexual orientation in general.

## *Bisexual*

A person emotionally, physically, and/or sexually attracted to males and females. This attraction does not have to be equally split between genders and there may be a preference for one gender over others. This person is also called "bi".

## *Gay*

This term has a double meaning:

1. It is used in the context of some cultural settings to represent males who are attracted to males in a romantic, erotic and/or emotional sense. Not all men who engage in "homosexual behavior" identify as gay, and as such this "label" should be used with caution.

2. Referred to the LGBTQI community as a whole, or as an individual identity "label" for anyone who does not identify as heterosexual.

## *Heterosexual*

A person who is attracted only to persons of the opposite sex. This person is also called "straight".

## *Intersex*

A person whose sexual anatomy or chromosomes do not fit with the traditional markers of "female" and "male." For example: people born with both "female" and "male" anatomy (penis, testicles, vagina, uterus); people born with XXY<sup>20</sup>.

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<sup>20</sup>Anon, (2017). [online] Available at: <http://www.stop-homophobia.com/lgbt-terms-and-definitions> [Accessed 29 Jun. 2017].

## *Lesbian*

A woman enduring physical, romantic and/or emotional attraction is to other women. Some lesbians may prefer to identify as gay (adj.) or as gay women<sup>21</sup>.

## *Pansexual*

It refers to a person whose emotional, romantic and/or sexual attraction towards others is not limited by biological sex, gender or gender identity<sup>22</sup>.

## *Queer*

1) An umbrella term sometimes used by LGBTQA people to refer to the entire LGBT community. 2) An alternative that some people use to "queer" the idea of the labels and categories such as lesbian, gay, bisexual, etc. Similar to the concept of genderqueer. It is important to note that the word queer is an in-group term, and a word that can be considered offensive to some people, depending on their generation, geographic location, and relationship with the word<sup>23</sup>.

## *Transgender*

This term has many definitions. It is frequently used as an umbrella term to refer to all people who do not identify with their assigned gender at birth or the binary gender system. This includes transsexuals, cross-dressers, genderqueer, drag kings, drag queens, two-spirit people, and others. Some transgender people feel they exist not within one of the two standard gender categories, but rather somewhere between, beyond, or outside of those two genders<sup>24</sup>.

## *Transsexual*

A person whose gender identity is different from their biological sex, who may undergo medical treatments to change their biological sex, often times to align it with their gender identity, or they may live their lives as another sex.

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<sup>21</sup>Wearefamilycharleston.org. (2017). *LGBT A-Z (Glossary)*. [online] Available at: <http://www.wearefamilycharleston.org/lgbt-a-z-glossary/> [Accessed 1 Jul. 2017].

<sup>22</sup>Stonewall. (2017). *Glossary of terms*. [online] Available at: <http://www.stonewall.org.uk/help-advice/glossary-terms> [Accessed 1 Jul. 2017].

<sup>23</sup>Anon, (2017). [online] Available at: <http://www.stop-homophobia.com/lgbt-terms-and-definitions> [Accessed 29 Jun. 2017].

<sup>24</sup>Anon, (2017). [online] Available at: <http://www.stop-homophobia.com/lgbt-terms-and-definitions> [Accessed 29 Jun. 2017].

## HISTORY OF THE TOPIC

### *The history of LGBTQI+ Community in Europe through the centuries*

LGBTQI+'s history has been a black charter in world's human rights' history. The LGBTQ community has been confronting a variety of dangers, difficulties, and problems since their own existence. They have been persecuted, brutally murdered and their rights have been violated to a great extent. Nevertheless, they continued fighting, demanding equality, sacrificing their own lives striving for the acceptance of their community by the rest of the world. It is vital to stress out the most important facts and their achievements through the centuries:

**1. Ancient Greece (5<sup>th</sup> – 146<sup>th</sup> B.C):** Homosexuality existed since ancient times. Specifically, the ancient Greeks did not even dichotomize the term sexuality in 'heterosexual' and 'homosexual'. A great range of information arising from dialogues of Plato, such as the *Symposium*<sup>25</sup>, to plays by Aristophanes, and Greek artwork and vases are the proofs that the most frequent assumption of sexual orientation is that persons can respond erotically to beauty in either sex.

**2. Ancient Rome (763 B.C- 476 A.C):** The acceptance of homosexuality was relevant to Ancient Greece. This remained especially under the Republic. Nevertheless, under the Empire, Roman society slowly aggravated its views towards sexuality, probably due to a social and economic crisis, even before Christianity became influential. The late Roman Empire witnessed a rise in intolerance towards sexuality with important regional variations.

**3. The collapse of the Roman Empire, its replacement by various barbarian kingdoms and the Medieval Period (5<sup>th</sup> A.C- 14 A.C):** In this era, an atmosphere of general tolerance of homosexuality continued to exist (with the sole exception of Visigothic Spain). European secular law included limited measures against homosexuality until the middle of the thirteenth century. The decisive turn against homosexuality occurred in the latter part of the twelfth through the fourteenth centuries alongside with the persecution of Jews, Muslims, heretics, and others. Even if the causes remain somewhat unclear, there is a high possibility that the increased class conflict and the Gregorian reform movement in the Catholic Church played an important role. The conception of "nature" as a standard of morality appeared in Church's preaches. Of course extramarital sex, non procreative sex within marriage, and often masturbation were also included as "unnatural" and "immoral" attitudes. The first ecumenical council to condemn homosexual sex, Lateran III of 1179, stated that "Whoever shall be found to have committed that incontinence which

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<sup>25</sup>Pickett, B. (2017). *Homosexuality*. [online] Plato.stanford.edu. Available at: <https://plato.stanford.edu/entries/homosexuality/> [Accessed 1 Jul. 2017].

is against nature” shall be punished, the severity of which depended upon whether the transgressor was a cleric or layperson.

**5. 15<sup>th</sup> -18<sup>th</sup> century:** It is very important to point out that the key category – until the 18<sup>th</sup> century- is the ‘sodomite’, which is understood as an act defined term including all possible “unnatural” behaviors (distinguished from the contemporary idea of ‘homosexual’). For example even persons who engaged in heterosexual sodomy were considered also to be sodomites. The penalties for sodomites were to be burned to death or beheaded with a spouse (Greenberg, 1988, 277).

**6. 19<sup>th</sup> century:** In the 19<sup>th</sup> century a significant reduction in the legal penalties for sodomy occurred. Specifically, the Napoleonic code first decriminalized sodomy and thanks to Napoleon's conquests that Code spread to other European countries as well. The term “homosexual” formally appeared in the late of 19<sup>th</sup> century by a German psychologist, Karoly Maria Benkert. Church’s theories and dominance withdrew. European science and psychology initiated their efforts to understand the range of human sexual behavior represented by Sigmund Freud and Magnus Hirschfield. Their surveys confronted the concept of a homosexual or bisexual orientation as a naturally occurring phenomenon in an identifiable segment of humankind. Especially, Freud himself did not consider homosexuality an illness or a crime.

**7. 20<sup>th</sup> century (until the Second World War):** In 1919 Hirschfield<sup>26</sup> founded Berlin's Institute for Sexual Science, Europe's best library archive of materials on gay cultural history. On the contrary, in England important gay and lesbian writers such as Oscar Wilde and Radclyffe Hall confronted severe discrimination. On the contrary, in 1917 after the October Revolution, homosexuality was decriminalized (even if some years later Stalin criminalized it again). In Germany, with the rise of Hitler's Third Reich, the former tolerance demonstrated by Germany's Scientific Humanitarian Committee vanished. Hirschfield's great library was destroyed and the books burnt by Nazis on May 10, 1933<sup>27</sup>.

**8. 20<sup>th</sup> century (after 1945):** Eventually, after the Second World War in Europe sexual roles were redefined once again. Characteristically speaking premarital intercourse slowly became more common and eventually acceptable. The prohibitions against sex for the sake of pleasure without marriage were reduced along with the arguments against gay sex. These trends were strengthened in the 1960's, and in this context that the gay liberation

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<sup>26</sup><http://www.apa.org>. (2017). *History of Lesbian, Gay, & Bisexual Social Movements*. [online] Available at: <http://www.apa.org/pi/lgbt/resources/history.aspx> [Accessed 1 Jul. 2017].

<sup>27</sup>Rimmele, H. (2017). *Magnus-Hirschfeld-Gesellschaft*. [online] [Hirschfeld.in-berlin.de](http://www.hirschfeld.in-berlin.de). Available at: [http://www.hirschfeld.in-berlin.de/frame.html?http://www.hirschfeld.in-berlin.de/v\\_institut\\_en.html](http://www.hirschfeld.in-berlin.de/frame.html?http://www.hirschfeld.in-berlin.de/v_institut_en.html) [Accessed 1 Jul. 2017].

movement really developed. Specifically, during this decade, the Culture and Recreation Centre (Amsterdam), the Mattachine Society (USA) and the Daughters of Bilitis (USA) were the first organizations to be formed supporting homosexuals's rights. Nevertheless, the decisive in homosexual history fact occurred in June 28, 1969<sup>28</sup>, when the patrons of the Stonewall Inn, a gay bar in Greenwich Village, rioted after a police raid. After that event, gay and lesbian groups started to organize around the country. The American Psychiatric Association removed homosexuality from its official listing of mental disorders. In addition, the International Lesbian and Gay Association was founded in Coventry, England along with the support of the decriminalization of homosexuality by the English Prime Minister Thatcher.

**9. Early 21th century:** The last two decades the acceptance of homosexuals has been proved on a politic level as well. Openly gay politicians have been elected in large cities in Europe such as Bertrand Delanoë in Paris and Klaus Wowereit in Berlin, elected mayors in 2001. In 2009 Jóhanna Sigurðardóttir became prime minister of Iceland—the world's first openly gay head of government. She was followed by Elio Di Rupo, who became prime minister of Belgium in 2011.

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<sup>28</sup>Encyclopedia Britannica. (2017). *gay rights movement | political and social movement*. [online] Available at: <https://www.britannica.com/topic/gay-rights-movement#ref239597> [Accessed 1 Jul. 2017].

## LEGAL FRAMEWORK

### *1. Universal Declaration of Human Rights 1948 Geneva (UDHR)<sup>29</sup>*

It is generally agreed to be the foundation of international human rights law. The UDHR is considered to be the cornerstone in human rights' assertion, as it has led to a rich body of legally binding international human rights treaties. According to article 2: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"<sup>30</sup>. The sexual orientation is included in "other status" ensuring the same legal status of the LGBTQ community.

### *2. UN Human Treaty Bodies*

They have confirmed that sexual orientation and gender identity are included among prohibited grounds of discrimination under international and human rights law. More specifically:

- a. *International Covenant on Civil and Political Rights*, adopted by the UN's General Assembly on December 19 1966: The Human Rights Committee<sup>31</sup> has affirmed that in article 26 ("equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status) of this UN's document is also including discrimination on the grounds of sexual orientation<sup>32</sup>
- b. *International Covenant on Social, Economic and Cultural Rights*: The Committee on Economic, Social and Cultural Rights had stated that by virtue of 2.2 and article 3 of the International Covenant on Economic, Social and Cultural Rights, the equal enjoyment or exercise of the right to health belong to all people without any discrimination on the grounds of sexual orientation<sup>33</sup>

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<sup>29</sup>Ohchr.org. (2017). *OHCHR | International Law*. [online] Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx> [Accessed 2 Jul. 2017].

<sup>30</sup>Un.org. (2017). *Universal Declaration of Human Rights*. [online] Available at: <http://www.un.org/en/universal-declaration-human-rights/> [Accessed 16 Sep. 2017].

<sup>31</sup>Sexual Orientation, Gender Identity and International Human Rights Law. (2009). 33 Rue des Bains, Geneva Switzerland: International Commission of Jurists.

<sup>32</sup>Ohchr.org. (2 Sexual Orientation, Gender Identity and International Human Rights Law. (2009). 33 Rue des Bains, Geneva Switzerland: International Commission of Jurists. 017). *OHCHR | International Covenant on Civil and Political Rights*. [online] Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx> [Accessed 2 Jul. 2017].

<sup>33</sup>Ohchr.org. (2017). *OHCHR | International Covenant on Economic, Social and Cultural Rights*. [online] Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx> [Accessed 1 Sep. 2017].

- c. *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 24 January 2008*<sup>34</sup>: The Committee against Torture has considered that sexual orientation is one of the prohibited grounds included in the principle of non-discrimination

*3. Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity, Indonesia November 2006*<sup>35</sup>

These principles are considered to be a universal guide to human rights that affirms binding international legal standards, with which all States should comply. The Yogyakarta Principles were developed mainly by the Two well established general human rights NGOs - the International Service for Human Rights and the International Commission of Jurists- that has taken important action<sup>36</sup>. The final document "contains 29 principles unanimously adopted by the experts, along with recommendations to governments, regional intergovernmental institutions, civil society, and the UN itself". The Yogyakarta Principles are a main bridge between human rights standards and their application to issues of sexual orientation and gender identity. The development of a set of international legal principles on the application of international law to human rights violations based on sexual orientation and gender identity will boost the clarity and coherence to States' human rights obligations<sup>37</sup>.

*4. The Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights)*

It was opened for signature in Rome on 4 November 1950 and came into force in 1953. It is considered to be the first instrument to give effect to human rights in total including the freedom of sexual orientation<sup>38</sup>.

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<sup>34</sup>Docstore.ohchr.org. (2017). *Cite a Website - Cite This For Me*. [online] Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhskvE%2BTuw1mw%2FKU18dCyrYrZhDDP8yaSRi%2Fv43pYTgmQ5n7dAGFdDalfzYTJnWNYOXxeLRAIVgbwcSm2ZXH%2BcD%2B%2F6ITopc7BkgqlATQUZPVhi> [Accessed 2 Jul. 2017].

<sup>35</sup>O'Flaherty, M. and Fisher, J. (2017). *Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles*.

<sup>36</sup>OutRight. (2017). *International: The Role of the Yogyakarta Principles*. [online] Available at: <https://www.outrightinternational.org/content/international-role-yogyakarta-principles> [Accessed 1 Sep. 2017].

<sup>37</sup>Yogyakartaprinciples.org. (2017). *Introduction to the Yogyakarta Principles – Yogyakartaprinciples.org*. [online] Available at: <http://www.yogyakartaprinciples.org/introduction/> [Accessed 7 Sep. 2017].

<sup>38</sup>Echr.coe.int. (2017). *European Convention on Human Rights - Official texts, Convention and Protocols*. [online] Available at: <http://www.echr.coe.int/pages/home.aspx?p=basictexts> [Accessed 2 Jul. 2017].

## *5. Council of Europe, Protocol no.12 to the Convention on Human Rights and Fundamental Freedoms<sup>39</sup>*

Within the political and legal framework of Council of Europe, a plethora of recommendations have been presented to its 47 Member States on the topic of the LGBT rights. The most crucial has been the request of signature and ratification of Protocol No. 12, an additional protocol to the European Convention on Human Rights (“ECHR”) on the general prohibition of discrimination. This protocol was published in 4<sup>th</sup> November in 2000 and it was entered into force in 2005<sup>40</sup>.

## **DISCUSSION OF THE TOPIC**

### *Violence against LGBTQ Community*

- **Facts of Violence**

Homophobic and trans phobic violence has been reported in all regions of the world. It ranges from aggressive, sustained psychological bullying to physical assault, torture, kidnapping and targeted killings. Sexual violence has also been widely reported, including so-called “corrective” or “punitive” rape, in which men rape women assumed to be lesbian on the pretext of trying to “cure” their victims of homosexuality<sup>41</sup>. According to a research of Human Rights Campaign Foundation about “Hate crimes and violence against lesbian, gay, bisexual and transgender people”, sexual orientation ranks as the third-highest motivator for hate crime incidents (17%)<sup>42</sup>. Violence takes place in a variety of settings: on the street, in public parks, in schools, in workplaces, in private homes, and in prisons and police cells. It may be spontaneous or organized, perpetrated by individual strangers or by extremist groups. A common characteristic of many anti-LGBT hate crimes is their brutality: murder victims, for example, are often

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<sup>39</sup>Europe's Human Rights Watchdog. (2017). *Council of Europe: Protocol No. 12*. [online] Available at: <http://www.europewatchdog.info/en/international-treaties/convention-on-human-rights/protocol-12/> [Accessed 2 Jul. 2017].

<sup>40</sup>Jushumanis.org. (2017). *LGBT Rights within the Council of Europe framework: the Principle of Non-Discrimination – Jus Humanis*. [online] Available at: <http://jushumanis.org/lgbt-rights-within-the-council-of-europe-framework-the-principle-of-non-discrimination/> [Accessed 2 Jul. 2017].

<sup>41</sup>Anon, (2017). [online] Available at: [https://www.unfe.org/system/unfe-5-UN\\_Fact\\_Sheets\\_v6\\_-\\_Homophobic\\_and\\_transphobic\\_violence.pdf](https://www.unfe.org/system/unfe-5-UN_Fact_Sheets_v6_-_Homophobic_and_transphobic_violence.pdf) [Accessed 22 Sep. 2017].

<sup>42</sup>Anon, (2017). [online] Available at: [Assets.hrc.org. \(2017\). Cite a Website - Cite This For Me\[online\]Avaiable at :http://assets.hrc.org/files/assets/resources/Hatecrimesandviolenceagainstlgbtpeople\\_2009.pdf?\\_ga=2.137438258.324399541.1499173140-2128205067.1498755117](http://assets.hrc.org/files/assets/resources/Hatecrimesandviolenceagainstlgbtpeople_2009.pdf?_ga=2.137438258.324399541.1499173140-2128205067.1498755117) [Accessed 4 Jul. 2017]. [Accessed 22 Sep. 2017].

found mutilated, severely burnt, castrated, showing signs of sexual assault. Transgender persons, especially those involved in sex work or in detention, face an especially high risk of deadly and extremely cruel violence. Torture and ill-treatment of lesbian, gay, bisexual, transgender and intersex people has also been extensively documented. Torture occurs in places of detention, where LGBT people may be victimized by police officers, prisons guards, or their own peers, while State agents turn a blind eye. Some forms of involuntary medical treatment may also be tantamount to torture, including anal examinations of gay men to “prove” their homosexuality, unwanted sterilization of transgender people and forced electric shock therapy intended to “change” someone’s sexual orientation<sup>43</sup>.

In 2016-2017 many incidents of violence against LGBT+ people happened all over the world.

-On August 12th a transgender woman, Hande Kader, was murdered. The murder, has caused an outcry in Turkey's biggest city, Istanbul. Turkey remains conservative on LGBTI (lesbian, gay, bisexual, transgender and intersex) issues. Her body was found mutilated and burnt in the upscale district of Zekeriyaköy a week after she was seen getting into a car in Harbiye, central Istanbul. Her body was identified by her lover and friends; no one from her immediate family wanted to come and identify her. Her friends mourned her death, giving memories of her activism and her desire to become a translator<sup>44</sup>. According to these accounts, Kader was a determined activist who took part in last year’s unauthorized Gay Pride Rally in Istanbul and was taken under police custody. “She wanted to be a translator but was not able to go to the University<sup>45</sup>.

-On April 2<sup>nd</sup>, police arrested four teenage boys in connection with the assault of two gay men in Arnhem. The victims were holding hands walking home from a party early Sunday morning, when they were confronted by a group of young men shouting at them<sup>46</sup>. Next day the D66 leader Alexander Pechtold and party

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<sup>43</sup>Google.gr. (2017). *Cite a Website - Cite This For Me*. [online] Available at: [https://www.google.gr/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwj17Yvc4JPWAhUEWBoKHTnJDGQQFggsMAA&url=https%3A%2F%2Fwww.unfe.org%2Fsystem%2Funde-5-UN\\_Fact\\_Sheets\\_v6\\_-\\_Homophobic\\_and\\_transphobic\\_violence.pdf&usq=AFQjCNHYOPaviGoG6ofYfvzDG8y--LsxcQ](https://www.google.gr/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwj17Yvc4JPWAhUEWBoKHTnJDGQQFggsMAA&url=https%3A%2F%2Fwww.unfe.org%2Fsystem%2Funde-5-UN_Fact_Sheets_v6_-_Homophobic_and_transphobic_violence.pdf&usq=AFQjCNHYOPaviGoG6ofYfvzDG8y--LsxcQ) [Accessed 7 Sep. 2017].

<sup>44</sup>Hürriyet Daily News | LEADING NEWS SOURCE FOR TURKEY AND THE REGION. (2017). *Murder of transgender woman shines dark light on rights issues in Turkey - RIGHTS*. [online] Available at: <http://www.hurriyetdailynews.com/murder-of-transgender-woman-shines-dark-light-on-rights-issues-in-turkey.aspx?PageID=238&NID=103018&NewsCatID=339> [Accessed 22 Sep. 2017].

<sup>45</sup>Shafak, E. (2017). *The shocking murder of trans activist Hande Kader says much about Turkey today* | Elif Shafak. [online] the Guardian. Available at: <https://www.theguardian.com/commentisfree/2016/aug/23/murder-transgender-lgbt-hande-kader-turkey> [Accessed 3 Sep. 2017].

<sup>46</sup>Bilefsky, D. (2017). *Dutch Men Hold Hands in Solidarity With Attacked Gay Couple*. [online] Nytimes.com. Available at: <https://www.nytimes.com/2017/04/06/world/europe/dutch-men-hold-hands.html?mcubz=0> [Accessed 3 Sep. 2017].

member Wouter Koolmees arrived hand in hand at the negotiations on the formation of a new Dutch government. They were holding hands to show their support and solidarity for the gay couple that was attacked in Arnhem over the weekend. All over the world, known and unknown persons were holding hands protesting for equality and rights<sup>47</sup>.

- The Chechen leader Ramzan Kadyrov created two unofficial prisons, humiliating whoever is suspected of being gay. Many of the victims told that they were stripped naked, beaten with pipes and electrocuted. More than 100 men suspected of being gay were abducted, tortured and in some cases killed<sup>48</sup>.

- **Types of violence**

The United Nations Human Rights chief has stated in a new report that lesbians, gays, bisexuals and transgender people are victims of “pervasive violent abuse, harassment and discrimination” in all regions of the world and cites hundreds of hate-related killings. The High Commissioner for Human Rights, Zeid Raad al-Hussein, pointed out that actions taken by some countries to reduce violence and discrimination based on sexual orientation and gender identity, since the last report in 2011 have been overshadowed by continuing human rights violations against these groups, too often perpetrated with impunity<sup>49</sup>.

Violence is divided into 5 types. The first one is the **physical violence** which occurs when someone uses a part of his/her body or an object to control a person’s actions. It includes i) use of physical force, which results in pain, discomfort or injury, hitting, pinching, hair-pulling, arm-twisting, strangling, beating or any other rough treatment, ii) assault with weapon or any other object, iii) threats with weapon or object, and/or iv) deliberate exposure to severe weather or inappropriate room temperatures and murder<sup>50</sup>.

Another category is **sexual violence** and occurs when a person is forced to unwillingly take part in sexual activity. Among others includes touching in sexual manner without consent (i.e., kissing, grabbing, fondling), forced sexual

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<sup>47</sup>NL Times. (2017). *Teens held in sadistic attack on gay men holding hands; Politicians show LGBT support*. [online] Available at: <http://nltimes.nl/2017/04/03/teens-held-sadistic-attack-gay-men-holding-hands-politicians-show-lgbt-support> [Accessed 3 Sep. 2017].

<sup>48</sup>Batchelor, T. (2017). *This testimony from gay men tortured in Chechnya is the most important thing you will read today*. [online] The Independent. Available at: <http://www.independent.co.uk/news/world/europe/chechnya-anti-gay-purge-victims-stripped-naked-beaten-electrocuted-torture-detain-human-rights-watch-a7757786.html> [Accessed 4 Jul. 2017].

<sup>49</sup>the Guardian. (2017). *LGBT people suffer widespread violent abuse, discrimination: new UN report*. [online] Available at: <https://www.theguardian.com/world/2015/jun/02/lgbt-people-suffer-widespread-violent-abuse-discrimination-new-un-report> [Accessed 4 Sep. 2017].

<sup>50</sup>Gov.nl.ca. (2017). *Types of Violence and Abuse | Violence Prevention Initiative*. [online] Available at: <https://www.gov.nl.ca/VPI/types/#1> [Accessed 4 Jul. 2017].

intercourse, forcing a person to perform sexual acts that may be degrading or painful. Beating sexual parts of the body, forcing a person to view pornographic material or participate in pornographic filming. Humiliating criticizing or trying to control a person's sexuality and purposefully exposing the person to HIV-AIDS or other sexually transmitted infections<sup>51</sup>.

The third type of violence is **emotional violence** and occurs when someone says or does something to make a person feel humiliated or worthless. It includes humiliation and intimidation of the person causing fear to gain control, threats to hurt oneself if the person does not cooperate and threats to abandon the person<sup>52</sup>.

**Psychological violence** occurs when someone uses threats and causes fear in a person to gain control. Includes threatening to harm the person or her/his family if she/he leaves, threats of violence, stalking/criminal harassment, verbal aggression, social isolation of the person.<sup>53</sup>

Last type of violence is the **verbal violence**, which occurs when someone uses language, whether spoken or written, to cause harm to a person. It includes expression of distrust, yelling, lying, insulting, swearing and unkindly talking about death to a person.

### *Same sex marriage and children adoption*

#### *-Same sex marriage:*

During the centuries, LGBTQ people have struggled for the establishment of their rights. One of their less respected rights is their freedom to be united with the person they love: their right to marriage. Even if -thanks to their efforts- the rates of acceptance for same-sex couples has been importantly increased in some Western countries, this did not apply to all of them. More specifically, concerning Europe, only the Western parts of the continent fully recognize the right to same sex marriage. Nevertheless, during the recent years there have been many developments on the legal framework of several less "open-minded" countries, such as Greece, that they preceded in similar but nonequivalent solutions. Specifically, the aforementioned countries have institutionalized the right of same sex people to form civil partnerships. Nevertheless, this civil union has not yet reached the same status as marriage. However, the number of countries that do not even recognize this option (civil contract) is still high. Europe has a broad east-west division on the issue, with the likes of Russia and Ukraine among the worst concerning the institutionalization of same sex

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<sup>51</sup>Ibid.

<sup>52</sup>Ibid.

<sup>53</sup>Ibid.

unions. Additionally, over the years, the European Human Rights Court (ECHR) has handled cases that challenged the lack of legal recognition of same-sex couples in certain member states. The Court has concluded that even if the European Convention on Human Rights (ECHR) requires member states to provide legal recognition, it does not oblige member states to legislate for same sex marriages or legally recognize same sex marriages<sup>54</sup>.

More specifically, the first country to institutionalize same sex marriage in the beginning of the 21st century was the Netherlands. Thanks to their progressiveness and acceptance the Netherlands stand out as one of the friendliest countries to same sex couples' rights. The example of the Netherlands was also followed by other Western countries, such as Belgium, Spain, Sweden, Norway and Portugal<sup>55</sup>. Progressively, many countries adopted the same legislation on same sex unions with Germany to be the latest one<sup>56</sup>. In parallel, as already stated, other countries have proceeded to similar solutions concerning the legalization of same sex unions, such as the civil contract. For instance, among the countries that stipulate civil contracts for same sex unions are Croatia, Austria, Italy, Czech Republic, Switzerland with Greece to be the last one to join them<sup>57</sup>. It should also be noted that civil unions and registered partnerships are considered equivalent or comparable to marriage in some EU countries<sup>58</sup>. On the other hand, there are countries that do not enshrine any same sex right of civil union in their legal frameworks. More specifically, Russia, Ukraine, Romania, Albania, Bulgaria and generally almost all Balkan countries are limiting politic acceptance of unions only to opposite sexes. Marriage is defined as a union solely between a man and a woman in the constitutions of Armenia, Belarus, Bulgaria, Latvia, Lithuania, Moldova, Montenegro, Poland, Serbia, Slovakia and Ukraine. In Russia and Turkey, two of the most conservative countries concerning the issue of same sex marriage, are in lack of any means of giving legal status to the relationship of same-sex couples<sup>59</sup>. Many couples especially in Russia have turned to the European Court of Human Rights with complaints lodged by same-sex couples concerning the

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<sup>54</sup>Buyse, A. (2017). *Strasbourg court rules that states are not obliged to allow gay marriage* | Antoine Buyse. [online] the Guardian. Available at: <https://www.theguardian.com/law/2010/jun/24/european-court-of-human-rights-civil-partnerships> [Accessed 4 Jul. 2017].

<sup>55</sup>Nag, O. (2017). *First Countries To Recognize Same-Sex Marriages Nationally*. [online] WorldAtlas. Available at: <http://www.worldatlas.com/articles/first-countries-to-recognize-same-sex-marriages-nationally.html> [Accessed 4 Jul. 2017].

<sup>56</sup>Shimer, A. (2017). *German Parliament Approves Same-Sex Marriage*. [online] Nytimes.com. Available at: <https://www.nytimes.com/2017/06/30/world/europe/germany-gay-marriage.html> [Accessed 4 Jul. 2017].

<sup>57</sup>ILGA. (2017). *Maps | sexual orientation laws*. [online] Available at: <http://ilga.org/what-we-do/maps-sexual-orientation-laws/> [Accessed 7 Sep. 2017].

<sup>58</sup>Your Europe - Citizens. (2017). *Registered partnerships*. [online] Available at: [http://europa.eu/youreurope/citizens/family/couple/registered-partners/index\\_en.htm](http://europa.eu/youreurope/citizens/family/couple/registered-partners/index_en.htm) [Accessed 4 Jul. 2017].

<sup>59</sup>ILGA-Europe Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2016. (2017). ILGA EUROPE. [Accessed 20 Sep.2017].

inability of same-sex couples to register for marriage under Russian legislation<sup>60</sup>. Over the recent years the European Court of Human Rights - as proved by its decision on complaints brought upon them by same sex couples- has started rethinking its approach to the matter and condemning countries that have failed to fulfill their positive obligation to provide a specific legal framework offering recognition and protection of same-sex unions. Specifically, according to European Court, they have violated rights protected by Article 14 (prohibition of discrimination) in conjunction with Article 8 (right to respect for private and family life) of the European Convention on Human Rights<sup>61</sup>. Specifically, on a case brought upon the European Court in 2015 -the case of Oliari and Others v. Italy- the court recognized the right of these men to have their stable relations recognized as civil unions or even respecting their right to marriage<sup>62</sup>. The question that arises is quite interesting:

Are countries obliged by European Legislation to institutionalize same sex unions?

#### *-Adoption of Children by same sex couples:*

Another great deal of division between the European Countries concerns the issue of adoption of children by same sex couples. In general, the approaches are similar to those concerning same sex marriage. The western countries are adopting friendlier policies on the matter, while the eastern ones remain negative. An on-going debate has occurred throughout Europe over proposals to legalize same-sex parental adoption, as well as stepchild adoption. Nevertheless, the legal right of same-sex couples to adopt is slowly becoming more common in Europe. Sixteen European countries have fully legalize adoption by same sex couples namely Andorra, Austria, Belgium, Denmark, Finland, France, Iceland, Ireland, Luxembourg, Malta, the Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom<sup>63</sup>. In Croatia, a life partner may become a partner-guardian over their partner's child, which is to a great extent comparable to stepchild adoption<sup>64</sup>. On the other part of Europe,

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<sup>60</sup>Völkerrechtsblog, I. (2017). *Is there a positive obligation on Russia to legalise same-sex unions under the European Convention on Human Rights?*. [online] Völkerrechtsblog. Available at: <https://voelkerrechtsblog.org/is-there-a-positive-obligation-on-russia-to-legalise-same-sex-unions-under-the-european-convention-on-human-rights/> [Accessed 4 Jul. 2017].

<sup>61</sup>Echr.coe.int. (2017). *European Convention on Human Rights - Official texts, Convention and Protocols*. [online] Available at: <http://www.echr.coe.int/pages/home.aspx?p=basictexts> [Accessed 4 Jul. 2017].

<sup>62</sup>Hudoc.echr.coe.int. (2017). *HUDOC - European Court of Human Rights*. [online] Available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-156265%22%5D%7D> [Accessed 7 Sep. 2017].

<sup>63</sup>Adoption.laws.com. (2017). *Gay Adoption - Adoption | Laws.com*. [online] Available at: <http://adoption.laws.com/gay-adoption> [Accessed 7 Sep. 2017].

<sup>64</sup>Equaldex.com. (2017). *LGBT Rights in Croatia | Equaldex*. [online] Available at: <http://www.equaldex.com/region/croatia> [Accessed 5 Jul. 2017].

Russia is far away from legalizing adoption<sup>65</sup>. On the other hand, the European Court of Human Rights, according to its recent decisions - on cases concerning adoption by same sex couples - “same sex couples can embark on the process of adopting a child. European states should ensure equality in the right to found a family”. Specifically, the cornerstone case in the court’s jurisprudence on family rights was the case of *E.B. v. France* held by 10 votes to seven that the French authorities’ refusal of a lesbian’s application to obtain authorization to adopt a child on the grounds of her sexual orientation violated Article 14 (prohibition of discrimination) and Article 8 (right to respect for private and family life) of the European Convention on Human Rights<sup>66</sup>. Nevertheless, another problem is arising: even if same sex couple’s adoption is increasingly being recognized in many European countries, it can currently cause problems when people travel, potentially meaning that legal parenthood may not be recognized when people cross countries borders.

### *Discrimination against LGBTQ community*

Discrimination against LGBTQ+ people and “gay stigma” are a today’s problem in workplace, school or even at home. In the past, there has been open hostility against homosexual people, while this aggression was considered to be normality. Fortunately, much of this gay stigma has been extinguished. Nevertheless, homosexual discrimination and stigma still harm people, particularly young people, who are identified as homosexual. First and foremost, homophobia should be analyzed, in order to understand the roots of discrimination. Homophobia, biphobia and transphobia are terms that describe the fear, dislike or hatred of lesbian, gay, bisexual and transgender young people<sup>67</sup>. The aforementioned phobias can be expressed in many ways including discrimination, language, bullying, as well as violent and criminal behavior. This kind of phobias are encompassing a range of negative attitudes and feelings towards people who are identified or perceived as being lesbian, gay, bisexual or transgender (LGBT). It has also been defined as contempt, prejudice, aversion, hatred or antipathy, may be based on irrational fear<sup>68</sup>.

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<sup>65</sup>danlev, danlev, danlev, evansims and danlev (2017). *LGBT Rights in Russia* | Equaldex. [online] Equaldex.com. Available at: <http://www.equaldex.com/region/russia> [Accessed 2 Jul. 2017].

<sup>66</sup>Human Rights Watch. (2017). *Europe: Gay Adoption Ruling Advances Family Equality*. [online] Available at: <https://www.hrw.org/news/2008/01/23/europe-gay-adoption-ruling-advances-family-equality> [Accessed 4 Jul. 2017].

<sup>67</sup>Kris Kelly, H. (2017). *Understanding Homophobia, Biphobia, Transphobia*. [online] Lgbtyouth.org.uk. Available at: <https://www.lgbtyouth.org.uk/pro-understanding-homophobia-biphobia-transphobia> [Accessed 4 Jul. 2017].

<sup>68</sup>Foundation, L. (2017). *What is Homophobia?* | *LGBT Foundation*. [online] Lgbt.foundation. Available at: <http://lgbt.foundation/information-advice/hate-crime/what-is-homophobia/> [Accessed 7 Sep. 2017].

## *Bullying against LGBTQ+ youth*

Bullying has been perceived as any behavior that can make young people feel hurt, threatened, frightened and left out. It does not need to be intentional or repetitive, the primary concern is the impact the behavior is having on a young person. Specifically, homophobic bullying is happening when the pre-mentioned negative behavior is targeting a young person who is identified as lesbian, gay, bisexual or transgender (or because he/she is perceived to be LGBT). Analogically, terms, such as biphobic or transphobic bullying are also used to describe the negative confrontation of bisexual and transgender young people. Moreover, victims of this type of bullying can also be young people who seem not to conform to traditionally male or female gender roles<sup>69</sup>.

The results of homophobia can be disastrous. In 2006 representatives of ILGA-Europe and IGLYO jointly conducted a research on social exclusion of lesbian, gay, bisexual and transgender (LGBT) exclusion in Europe. According to this research, which was conducted with over 750 young LGBT people from 37 countries:

- 61% of respondents said to have experienced discrimination and prejudice inschool
- \* 53% reported having experienced bullying in school<sup>70</sup>.

Research proves that LGBT people show higher rates of mental health challenges than the general population<sup>71</sup>, while they are fighting sharp depression, anxiety, trauma and self-acceptance as a result of facing ongoing discrimination over their lifetimes<sup>72</sup>. LGBT youth are about three to four times as likely to attempt suicide as their peers<sup>73</sup>.

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<sup>69</sup>Fra.europa.eu. (2017). *Fear, isolation and discrimination common in Europe's LGBT community | European Union Agency for Fundamental Rights*. [online] Available at: <http://fra.europa.eu/en/press-release/2013/fear-isolation-and-discrimination-common-europes-lgbt-community> [Accessed 7 Sep. 2017].

<sup>70</sup>Ilga-europe.org. (2017). *Euro parliamentarians against homophobic bullying | ILGA-Europe*. [online] Available at: <https://www.ilga-europe.org/resources/news/media-releases/euro-parliamentarians-against-homophobic-bullying> [Accessed 4 Jul. 2017].

<sup>71</sup>Fergusson, D.M., Horwood, J.L. & Beautrais, A.L. (1999). Is sexual orientation related to mental health problems and suicidality in young people? *Archives of General Psychiatry*, 56(10), 876-880.

<sup>72</sup>Vincke, J. & Bolton, R. (1994). Social support, depression, and self-acceptance among gay men. *Human Relations*, 47(9), 1049-1062.

<sup>73</sup>Nicholas, J. & Howard, J. (1998). Better dead than gay? Depression, suicide ideation and attempt among a sample of gay and straight-identified males aged 18 to 24. *Youth Studies Australia*, 17(4), 28-33.

Human Rights Commissioner of the Council of Europe, Nils Muižnieks, has published in the past “LGBTI children have the right to safety and equality.”<sup>74</sup>

### *Discrimination in employment*

Unfortunately, “bullying” against homosexuals is present during their adulthood as well. It is specifically expressed in the field of employment. Discrimination can be encountered in recruitments, during the professional life (including wages and possible promotions), in firings (because of the employees’ sexual identity) or in their exclusion from different perquisites. In general, the LGBT people workforce continues to face widespread discrimination in the workplace.

More specifically, the forms of discrimination in employment are the following ones:

- a. High levels of discrimination in job interviews - 20% of LGBT people surveyed reported feeling discriminated against while looking for work, or at work, in the year preceding the Fundamental Rights Agency (FRA)’s LGBT Survey (2013)<sup>75</sup>
- b. LGBTQ people may experience harassment in the form of ‘jokes’ or LGBTI-phobic comments or threats to ‘out’ them. Trans and intersex people may face gender or sex discrimination related to the use of gender segregated facilities such as toilets or changing rooms or gender specific uniforms. According to the FRA survey, one third of trans job seekers encountered discrimination, while another third felt discriminated against in their workplace. The rate of trans people in paid employment reaches only 51%, compared to 68% of the general population<sup>76</sup>
- c. Fear is forcing LGBT employees to stay closeted at work concerning their sexuality - LGBT employees prefer to remain closeted about their sexual orientation and gender identity, as they are afraid that fully expressing themselves would result in them losing connections with coworkers, or

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<sup>74</sup>Ilga-europe.org. (2017). *LGBTI children have the right to safety and equality* | *ILGA-Europe*. [online] Available at: <https://www.ilga-europe.org/resources/news/latest-news/lgbti-children-have-right-safety-and-equality> [Accessed 4 Jul. 2017].

<sup>75</sup>Ilga-europe.org. (2017). *Employment* | *ILGA-Europe*. [online] Available at: <https://www.ilga-europe.org/what-we-do/our-advocacy-work/employment> [Accessed 4 Jul. 2017].

<sup>76</sup>HuffPost. (2017). *Workplace Discrimination: The LGBT Workforce*. [online] Available at: [http://www.huffingtonpost.com/kurina-baksh/workplace-discrimination-\\_b\\_10606030.html](http://www.huffingtonpost.com/kurina-baksh/workplace-discrimination-_b_10606030.html) [Accessed 4 Jul. 2017].

that they would even lose professional opportunities for development or advancement<sup>77</sup>

- d. Furthermore, in many European countries, LGBTI people do not have access to family related leave (maternal/parental leave, bereavement, etc.) or are denied certain benefits and pension arrangements

Discrimination -in any form expressed- is disapproved by the Council of Europe. The Council of Europe's Committee of Ministers recommendation on measures to combat discrimination on grounds of sexual orientation or gender identity (CM/Rec(2010)5) is calling upon countries to "provide effective protection against discrimination on grounds of sexual orientation or gender identity in employment and occupation in the public, as well as in the private sector." The provision of "an effective protection of the right to privacy of transgender individuals in the context of employment, in particular regarding employment applications, to avoid any irrelevant disclosure of their gender history or their former name to the employer and other employees" is also consolidated<sup>78</sup>. Among European countries of Andorra, Belgium, the Czech Republic, Finland, France, Malta, the Netherlands, Sweden, Switzerland, since 2000 the law foresees no discrimination against homosexuals with regard to employment in State institutions. In the United Kingdom the requirement to declare sexual orientation has been removed from the application form for judicial appointments<sup>79</sup>. In addition, a new study held by Expert Market that included 43 European countries concluded that the most ideal European countries for LGBTQ workers are Norway, Finland and Belgium. On the contrary, 5 countries that LGBT workers should avoid are Armenia, F.Y.R.O.M, Azerbaijan, Turkey and Russia. The criteria of the study were mainly based on antidiscrimination legislation and policies, employment legislation, protective measures against housing, tolerance index, as well as several employment-related criteria, such as unemployment rate, monthly salary available<sup>80</sup>.

All in all, even if there has been quite a progress in the combat of discrimination against homosexuals in the field of employment, it is not adequate, especially, taking into consideration some countries' "unwillingness to cooperate".

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<sup>77</sup>Ibid.

<sup>78</sup>Search.coe.int. (2017). *Cite a Website - Cite This For Me*. [online] Available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805cf40a](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cf40a) [Accessed 4 Jul. 2017].

<sup>79</sup>Assembly.coe.int. (2017). *Situation of lesbians and gays in Council of Europe member states*. [online] Available at: <http://www.assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=8950&lang=en> [Accessed 4 Jul. 2017].

<sup>80</sup>Expert Market. (2017). *Les meilleurs pays européens pour travailleurs LGBT*. [online] Available at: <http://www.expertmarket.fr/pays-pour-travailleur-lgbt> [Accessed 4 Jul. 2017].

## **BLOC POSITIONS**

### *Europe*

Europe is attracting people, whose identities were degraded or flat-out denied by other countries. Europe is one of the most progressive regions of the world, especially when it comes to LGBT rights and equality. Nevertheless, friendly to LGBTQ+ people environment is not enshrined in all European countries. The rates of acceptance differ from country to country along with the various legal frameworks that ensure their rights. In parallel, there are European countries, which the last few years have shown progress and proceeded with lawmaking process, in order to consolidate LGBTQ+ rights. This progress begun with the legal recognition of same sex couples as partners and continued to the legalization of equal marriage and adoption<sup>81</sup>. Nevertheless, Europe remains divided on the issue of LGBTQ+'s rights. More specifically, countries may be categorized as follows:

### *The most progressive European countries*

In general, the western countries in Europe show higher levels of acceptance in comparison to the eastern ones'. More specifically, the Netherlands was the first country to blaze the trail for gay rights worldwide, legalizing same-sex marriage in 2001. Second on the list of LGBTQ+ friendly countries comes Norway. Norway is the second country in Europe to provide free HIV-preventing Pre exposure Prophylaxis (PrEP) drugs through its national health service in 2016, which reduces the risk of HIV infections by up to 86%. The country's legislation also facilitated the procedure of changing gender for the trans people by signing just one form, opening it to children with the consent of their parents. Norway has legalized same-sex marriage since 2009. In addition, Belgium has always been one of the most progressive countries around Europe concerning LGBT rights. Belgium came second in legalizing gay marriage in 2003. Approximately a thousand same-sex marriages are celebrated each year. Malta is also providing a friendly environment to LGBTQ community. Specifically, Malta was the first country in Europe to ban gay conversion therapy. Malta's parliament in Valetta unanimously approved bill outlawing attempts to "cure" homosexuality. UK legalized gay marriage in 2013 (England and Wales) and 2014 (Scotland). Nevertheless, Britain hosts some of the most enigmatic and most visited pride parades in the world, such as London, Brighton and Manchester. A park with three historical monuments, including the Alan Turing Memorial, the Transgender Remembrance Memorial and the Beacon of Hope, a sculpture paying tribute to those affected by AIDS is located in Manchester

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<sup>81</sup>Duncan, P. (2017). *A history of same-sex unions in Europe*. [online] the Guardian. Available at: <https://www.theguardian.com/news/datablog/2016/jan/24/a-history-of-same-sex-unions-in-europe> [Accessed 7 Sep. 2017].

providing information about city's LGBT history. Among other countries that support LGBTQ+ rights Ireland, Sweden, Finland, Denmark, Spain, France and Portugal can be included<sup>82</sup>. Germany is the last to join them, as the German parliament passed a bill that gives homosexual couples in Germany the same rights as heterosexual couples, allowing same-sex couples to marry and jointly adopt children<sup>83</sup>.

### *The reluctant European countries*

Other European countries, are still reluctant towards LGBTQ+ community, without being hostile. Their hesitation can be traced in their legal framework. More specifically, they have not legalized same sex marriage. Nevertheless, they have made important steps towards the modernization of their legal framework concerning LGBTQ+ rights, as they have gradually recognized some form of civil union. Among these countries Andorra, Austria, Croatia, Cyprus, the Czech Republic, Estonia, Greece, Hungary, Italy, Liechtenstein, Slovenia, Montenegro and Switzerland are included<sup>84</sup>. In Andorra<sup>85</sup>, change of gender or the adoption of children by LGBT people is not permitted according to the legal framework, while conversion therapy has not been banned. Austria<sup>86</sup>, even if it permits the adoption of children, it has banned the donation of blood by Men who have Sex with Man (MSM). The blood donation is also banned in Croatia<sup>87</sup>, in Czech Republic<sup>88</sup> and Estonia<sup>89</sup>. In general, the aforementioned countries are not characterized by a fully protective legal system for LGBTQ people. The last two countries to legalize civil contrasts for same sex couples were Italy<sup>90</sup> (2016) and

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<sup>82</sup>Days to Come. (2017). *Best European Countries for LGBT Rights - Days To Come*. [online] Available at: <http://www.tourradar.com/days-to-come/best-european-countries-lgbt-rights/> [Accessed 5 Jul. 2017].

<sup>83</sup>Judith Vonberg and Laura Smith-Spark, C. (2017). *German lawmakers vote to legalize same-sex marriage*. [online] CNN. Available at: <http://edition.cnn.com/2017/06/30/europe/germany-gay-marriage-vote/index.html> [Accessed 5 Jul. 2017].

<sup>84</sup>Lipka, M. and Lipka, M. (2017). *Where Europe stands on gay marriage and civil unions*. [online] Pew Research Center. Available at: <http://www.pewresearch.org/fact-tank/2017/06/30/where-europe-stands-on-gay-marriage-and-civil-unions/> [Accessed 7 Sep. 2017].

<sup>85</sup>Equaldex.com. (2017). *LGBT Rights in Andorra | Equaldex*. [online] Available at: <http://www.equaldex.com/region/andorra> [Accessed 5 Jul. 2017].

<sup>86</sup>danlev (2017). *LGBT Rights in Austria | Equaldex*. [online] Equaldex.com. Available at: <http://www.equaldex.com/region/austria> [Accessed 5 Jul. 2017].

<sup>87</sup>Equaldex.com. (2017). *LGBT Rights in Croatia | Equaldex*. [online] Available at: <http://www.equaldex.com/region/croatia> [Accessed 5 Jul. 2017].

<sup>88</sup>Equaldex.com. (2017). *LGBT Rights in Czech Republic | Equaldex*. [online] Available at: <http://www.equaldex.com/region/czech-republic> [Accessed 5 Jul. 2017].

<sup>89</sup>Equaldex.com. (2017). *LGBT Rights in Estonia | Equaldex*. [online] Available at: <http://www.equaldex.com/region/estonia> [Accessed 5 Jul. 2017].

<sup>90</sup>Povoledo, E. (2017). *Italy Approves Same-Sex Civil Unions*. [online] Nytimes.com. Available at: <https://www.nytimes.com/2016/05/12/world/europe/italy-gay-same-sex-unions.html?mcubz=1> [Accessed 7 Sep. 2017].

Greece (2015)<sup>91</sup>. It is worth mentioning that they evolved their legal framework in favor to LGBT rights, despite the intense religious conservatism that exist in their territories.

### *The most conservative-intolerant European Countries*

In spite of the fact that Europe is a friendly LGBTQ continent, there are still countries whose laws, policies and practices affecting LGBTI communities are intolerant and extremely conservative. Specifically, according to ratings of ILGA's Rainbow Europe list<sup>92</sup>, Azerbaijan, Russia and Armenia, appear on the bottom of rankings, followed by Ukraine, Moldova, Belarus, Latvia, Lithuania and Turkey. Almost all the aforementioned countries -except for Turkey- are predominantly post-Soviet states, in which liberation of human rights began after the collapse of the Soviet Union in 1991<sup>93</sup>. For instance, Russia started the abolition of some of its anti-LGBT laws with the decriminalization of homosexual relationships in 1993. Additionally, since 1997, transgender Russians were also permitted to change their legal gender on identity documents despite the remaining obstacles to the process and invasive surgical requirements. ILGA-Europe, the European section of the International Lesbian, Gay, Bisexual, Trans and Intersex Association, rates Russia (along with Azerbaijan) as the least protective country in Europe for LGBT citizens, ranking it 48th out of the 49 European countries rated in its annual survey. Specifically, in June 2016, a new law forbidding the “propaganda of non-traditional sexual relationships” passed in Moscow<sup>94</sup>. Despite the aforementioned liberalization during the immediate post-Soviet period, authorities of the previously mentioned countries have commonly declined the permission of Pride parades, intimidated and arrested LGBT activists and overlooked anti-LGBT statements by government officials<sup>95</sup>. Other countries, which do not belong to the post-Soviet bloc, but are following similar negative techniques against LGBTQ people are Bulgaria, FYROM, Poland, Slovakia and Serbia<sup>96</sup>. Characteristically, Belarus, Bulgaria, Latvia, Lithuania, Moldova, Montenegro, Poland, Serbia, Slovakia and Ukraine are depriving LGBT couples

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<sup>91</sup>the Guardian. (2017). *Greece passes bill allowing civil partnerships for same-sex couples*. [online] Available at: <https://www.theguardian.com/world/2015/dec/23/greece-passes-bill-allowing-same-sex-civil-partnerships> [Accessed 7 Sep. 2017].

<sup>92</sup>Rainbow-europe.org. (2017). *Rainbow Europe*. [online] Available at: <https://rainbow-europe.org/> [Accessed 5 Jul. 2017].

<sup>93</sup>Foreign Policy. (2017). *Gay in the USSR*. [online] Available at: <http://foreignpolicy.com/2013/03/26/gay-in-the-ussr/> [Accessed 7 Sep. 2017].

<sup>94</sup>Globalequality.org. (2017). *The Facts on LGBT Rights in Russia - Council for Global Equality*. [online] Available at: <http://www.globalequality.org/newsroom/latest-news/1-in-the-news/186-the-facts-on-lgbt-rights-in-russia> [Accessed 2 Jul. 2017].

<sup>95</sup>danlev, danlev, evansims and danlev (2017). *LGBT Rights in Russia | Equaldex*. [online] Equaldex.com. Available at: <http://www.equaldex.com/region/russia> [Accessed 2 Jul. 2017].

<sup>96</sup>Sheftalovich, Z. and Sheftalovich, Z. (2017). *Latvia, Lithuania and Poland worst countries to be gay in EU*. [online] POLITICO. Available at: <http://www.politico.eu/article/latvia-lithuania-and-poland-worst-countries-to-be-gay-in-eu/> [Accessed 5 Jul. 2017].

from the possibility to have their unions legally recognized and are ranked among the worst countries for the LGBTQ community<sup>97</sup>.

In conclusion, European countries are not following equitable policies on the recognition of LGBTQ rights. There is a deep division on the confrontation of the issue: conservatives and liberals are adopting their own techniques.

### **ACTIONS THAT HAVE ALREADY BEEN TAKEN**

A plethora of actions for the respect of sexual orientation and to tackle social discrimination and violence against LGBTQ people had already been taken by the Council of Europe. First of all, in 2015 Council of Europe's human rights standard-setting work was strengthened with a specific focus on the rights of intersex people. Trans rights were also high on the agenda, in particular at the Council's Parliamentary Assembly<sup>98</sup>. In May 2015 the European Commission's against Racism and Intolerance (ECRI's) annual meeting of the national specialized bodies (equality bodies and national Human Rights Institutions) focused on the underreporting of discrimination and hate crime<sup>99</sup>. Along with representatives from civil society and intergovernmental organizations, European Commission against Racism and Intolerance (ECRI) discussed how could these organizations work together to tackle the underreporting of hate crimes, including homophobic and transphobic hate crime. On 22 April 2015, the Council of Europe Parliamentary Assembly (PACE) adopted Resolution 2048(2015) "Discrimination against transgender people in Europe". The resolution calls for abolition of the legal requirement of sterilization and other compulsory medical treatment in laws regulating the procedure for changing a name and registered gender<sup>100</sup>. Other important Resolutions adopted by the United Nations Human Rights Council the first UN intergovernmental body to adopt resolutions on human rights and specifically sexual orientation and gender identity were: the *Resolution 17/19* adopted by the Human Rights Council on 17 June 2011 "Human rights, sexual orientation and gender identity"<sup>101</sup> and the *Resolution 32.2* adopted by the Human Rights Council on 30 June

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<sup>97</sup>Osborne, S. (2017). *The 15 worst countries to be gay in Europe*. [online] The Independent. Available at: <http://www.independent.co.uk/news/world/europe/the-15-worst-countries-to-be-gay-in-europe-azerbaijan-russia-armenia-a7024416.html> [Accessed 7 Sep. 2017].

<sup>98</sup>Anon, (2017). [online] Available at: [https://www.ilga-europe.org/sites/default/files/Attachments/annual\\_review\\_2016-for\\_web.pdf](https://www.ilga-europe.org/sites/default/files/Attachments/annual_review_2016-for_web.pdf) [Accessed 14 Jul. 2017].

<sup>99</sup>Ibid.

<sup>100</sup>Anon, (2017). [online] Available at: [https://www.ilga-europe.org/sites/default/files/Attachments/annual\\_review\\_2016-for\\_web.pdf](https://www.ilga-europe.org/sites/default/files/Attachments/annual_review_2016-for_web.pdf) [Accessed 14 Jul. 2017].

<sup>101</sup>Ohchr.org. (2017). *OHCHR | LGBT UN Resolutions*. [online] Available at: <http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBTUNResolutions.aspx> [Accessed 1 Sep. 2017].

2016 “Protection against violence and discrimination based on sexual orientation and gender identity”<sup>102</sup>.

Moreover, the Parliamentary Assembly of the Council of Europe adopted Resolution 2097 (2016) on access to school and education for all children. The resolution refers to all member states, in order for them to enhance their education systems and to ensure access to quality education for all and regular class attendance until the end of the study program. Member states should in particular: ensure access by lesbian, gay, bisexual, transgender and intersex children to quality education by promoting respect and inclusion of LGBTI persons and the dissemination of objective information about issues concerning sexual orientation and gender identity, and by introducing measures to address homophobic and transphobic bullying<sup>103</sup>. Furthermore, many projects and campaigns have already been organized by the ILGA Europe. More specifically:

i) RAINBOW – Rights Against Intolerance: Building an Open-minded World, which is a project connecting EU gay and lesbian associations, schools, media professionals, as well as promoting the rights of children and young people to their sexual identity and orientation and of whom fight against homophobia, in order to a) study stereotypes and b) challenge them<sup>104</sup>

ii) ARES - Artistic Education System for Social Inclusion of young Lesbian, Gay, Bisexual and Transgender Adults. ARES is a European consortium with partners from Italy, Netherlands, Estonia, Poland and the UK working to rise awareness of the national and local communities and to develop a wider transnational discussion on how cultural media can help shape a more tolerant society for young adult lesbians, gay men, bisexuals and transgenders<sup>105</sup>.

Finally, The Council of Europe has established a number of international legal instruments and standards on combating discrimination on grounds of sexual orientation or gender identity. They aim to express the underlying message of the Organization, which is that the Council of Europe's standards of tolerance and non-discrimination apply to all European societies, and discrimination on grounds of sexual orientation or gender identity is not compatible with these standards. The publication "Combating discrimination on grounds of sexual

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<sup>102</sup>Un.org. (2017). *United Nations Official Document*. [online] Available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/HRC/RES/32/2](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/RES/32/2) [Accessed 2 Jul. 2017].

<sup>103</sup>Anon, (2017). [online] Available at: [http://file:///C:/Users/%CE%94%CE%B7%CE%BC%CE%AE%CF%84%CF%81%CE%B7%CF%82%20%CE%9D%CE%B9%CE%BA%CE%BF%CE%BB%CE%B1%CE%90%CE%B4%CE%B7%CF%82/Downloads/093716GBR\\_Non%20discrimination.pdf](http://file:///C:/Users/%CE%94%CE%B7%CE%BC%CE%AE%CF%84%CF%81%CE%B7%CF%82%20%CE%9D%CE%B9%CE%BA%CE%BF%CE%BB%CE%B1%CE%90%CE%B4%CE%B7%CF%82/Downloads/093716GBR_Non%20discrimination.pdf) [Accessed 14 Jul. 2017].

<sup>104</sup>Ilga-europe.org. (2017). Project and campaigns | ILGA-Europe. [online] Available at: <https://www.ilga-europe.org/resources/thematic/education/project-and-campaigns> [Accessed 14 Jul. 2017].

<sup>105</sup>Ilga-europe.org. (2017). Project and campaigns | ILGA-Europe. [online] Available at: <https://www.ilga-europe.org/resources/thematic/education/project-and-campaigns> [Accessed 14 Jul. 2017].

orientation or gender identity" (June 2011) provides an accessible and comprehensive compilation of the standards adopted by the Council of Europe<sup>106</sup>. It should serve as a reference for the governments, international institutions, Non-Governmental Organizations, media professionals and to all those who are - or should be - professionally or otherwise involved or interested in protecting and promoting the human rights of lesbian, gay, bisexual and transgender persons<sup>107</sup>.

## **QUESTIONS TO BE ADDRESSED**

- How can the legal framework concerning LGBTQ rights can be boosted? Is the existing legal framework adequate?
- Should the adoption by same sex couples be legalized? How could the more conservative member States liberalized?
- The situation in Chechnya: the encroachment of LGBTQ rights in Russia.
- Equality in employment for LGBTQ people: necessary steps in order to ensure it.
- How can facts of violence against LGBTQ people be confronted?
- Progressive representation of LGBTQ communities around the world.
- Equal representation of LGBTQI+ people of all nations at international and European instruments.
- The direct affect exercised by religion at the LGBTQI+ Community.
- Should the sex reassignment surgery and psychological support be funded by the state?
- Should the gender queer citizens be recognized by the state?

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<sup>106</sup>Google.gr. (2017). Cite a Website - Cite This For Me. [online] Available at: <https://www.google.gr/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjulv2H95PWAhWCLhoKHbJkBCgQFggxMAA&url=https%3A%2F%2Frm.coe.int%2F168047f2a6&usg=AFQjCNECz4JDjRd3yXMFllKMPN6-7xMBOw> [Accessed 7 Sep. 2017].

<sup>107</sup>standards, C. and Europe, C. (2017). Council of Europe Standards. [online] Coe.int. Available at: <http://www.coe.int/en/web/sogi/council-of-europe-standards> [Accessed 14 Jul. 2017].

## CONCLUSION

*“Equality means equality for all-no exceptions, no ‘yes, buts’, no asterisked footnotes imposing limits”<sup>108</sup>.*

*Hubert H. Humphrey*

As clearly suggested both by this Study Guide and by the statement above, equality of LGBT+ people is undeniably a fundamental right. Protection of LGBT people from violence and discrimination neither does it require the creation of a new set of LGBT specific rights, nor does it require the establishment of extraordinary or additional international human rights standards. The legal obligations of every member state of the Council of Europe to safeguard the human rights of LGBT persons are already well established in the international law, but they lack of compliance and respect with regard to the rights of LGBT persons<sup>109</sup>. From a legal perspective, the issue seems to be clear: states are legally bound by international human rights. It is central to enhance the effort of the global community to integrate LGBT persons not only legally, but also socially. A complete equal treatment of every human being - regardless his/her sexual orientation - requires to take a new step towards the issue of social integration and social equality; meaning that every single LGBTQ person is free to enjoy a life, like the one of heterosexual people have. Many states are still struggling to treat LGBT people legally equal, but even more countries are struggling to include LGBT people in every day’s society and life. This constitutes the starting point for the work of this Committee in the upcoming session. The concept of social equality is fully achieved when all human beings have equal access to resources, equal treatment and opportunity, something that can be achieved through adequate education. Social equality means that all human beings “without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or status” are treated equally and have equal opportunities<sup>110</sup>. Yet, several attempts to end discrimination against and stigmatization of LGBT people have been made. It is challenging to come up with adequate ideas and means for the social integration of LGBT people. The respect and implementation of human rights, however, may be universal and independent from cultural and historical background. Discrimination and the abuse of human rights are central issues for the 21st century, which have to be overcome as soon as possible. Equality is something that should never have to

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<sup>108</sup>Lgi.umn.edu. (2017). About Us - Humphrey's Memorable Quotes: U of M Humphrey Institute. [online] Available at: <http://lgi.umn.edu/about/HHHquotes.html> [Accessed 14 Jul. 2017].

<sup>109</sup>wiseGEEK. (2017). What is Social Equality? (with pictures). [online] Available at: <http://www.wisegeek.com/what-is-social-equality.htm> [Accessed 8 Sep. 2017].

<sup>110</sup>Ohchr.org. (2017). OHCHR | Combating discrimination based on sexual orientation and gender identity. [online] Available at: <http://www.ohchr.org/en/issues/discrimination/pages/lgbt.aspx> [Accessed 8 Sep. 2017].

be voted upon. The aforementioned has already been decided in the Declaration of Independence, when Thomas Jefferson wrote: *“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights that among these are Life, Liberty and the pursuit of Happiness”*. Equal means equal people! It does not mean equal except gays. IT MEANS EQUAL”.<sup>111</sup>

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<sup>111</sup>Anon, (2017). [online] Available at: [http://www.coe.int/t/commissioner/source/lgbt/lgbtstudy2011\\_en.pdf](http://www.coe.int/t/commissioner/source/lgbt/lgbtstudy2011_en.pdf) [Accessed 14 Jul. 2017].

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