

How a landmark new recommendation will help better protect LGBTI people in Europe

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Intersex people's rights, legal gender recognition without abusive requirements, the exploration of non-binary markers and bans on conversion practices are at the centre of the first-ever general policy recommendation focusing on LGBTI people's rights to come from the European Commission against Racism and Intolerance, which is part of the Council of Europe. Keep reading to discover how this will help protect and improve the lives of LGBTI people, and how queer activists can use it in their work.

Last week, the Council of Europe's European Commission against Racism and Intolerance (ECRI) released the [first-ever general policy recommendation](#) focusing on LGBTI people's rights.

Not to be confused with the European Union, the Council of Europe brings even more European countries (46) together. While not being able to adopt any binding legislation for its member states, the Council of Europe has different tools at its disposal to ensure the full protection of human rights, democracy and the rule of law.

One tool are the ECRI General Policy Recommendations (GPR), which carry immense weight in protecting human rights, for example, they are frequently cited by the European Court of Human Rights in its decisions.

The new recommendation GPR No. 17 is the first ever to specifically address the human rights of LGBTI people and will provide an important reference point for its member states and for the Council of Europe institutions. For example, when designing a new policy or a national strategy, policy-makers in member states will be able to rely on it to ensure that future rules protect and improve the lives of LGBTI people.

What improvements does this recommendation bring compared to previous measures?

This recommendation represents a significant modernisation of the Council of Europe's toolbox for protecting the rights of LGBTI individuals. Prior to this, the most similar LGBTI-focused instrument is a [Committee of Ministers Recommendation from 2010](#). However, since then, countries in the region have made a great deal of progress to both clarify how the human rights framework applies to LGBTI people and to enact laws which serve to protect them. Notable differences in this new recommendation compared to other Council of Europe instruments include:

- **Protection of intersex people:** GPR No. 17 is the first Council of Europe document of its kind which describes how countries should protect intersex individuals and implement the protection ground of sex characteristics. It includes a ban on intersex genital mutilation (IGM), ensuring that medical interventions are not justified by social attitudes, ensuring support to intersex people who have undergone non-consensual interventions, and considering compensation to those who were previously subjected to these interventions.
- **Expanded coverage:** Unlike the 2010 recommendation, GPR No. 17 also covers individuals who are perceived to be LGBTI and those targeted due to their association with LGBTI people. Grounds coverage includes perceived sexual orientation, gender identity, and sex characteristics (SOGISC), but not gender

expression.

- **Building trust with LGBTI communities:** Council of Europe Member States are encouraged to implement trust-building activities with LGBTI communities regarding the reporting and adjudication of anti-LGBTI hate crimes and hate speech.
- **Online hate speech:** GPR No. 17 encourages treating online hate speech as equivalent to offline hate speech, applying the same laws.
- **Assisted reproductive technologies:** Recommendations regarding non-discriminatory access to assisted reproductive technologies have been expanded so that member States are encouraged to ensure that there are no policies around these technologies that discriminate on the grounds of SOGISC.
- **Comprehensive Sexuality Education (CSE):** GPR No. 17 includes a specific reference to CSE, along with the requirement that it must be evidence-based, reflecting a stronger emphasis on this important aspect.
- **Intersectionality:** Much more attention is paid to intersectionality, acknowledging the complex and multifaceted nature of discrimination.
- **Media:** The development of a code of conduct in the media sphere and training for media professionals is recommended.
- **Some advancement on Legal Gender Recognition (LGR):** GPR No. 17 suggests lower or no age limits for LGR, compensation for those subjected to sterilisation requirements, consideration of non-binary gender markers, and creating a clear pathway for non-nationals to access LGR.
- **Ban on ‘conversion practices’ for children and adults,** including through advertising and promotion, as well as bans in professional codes of practice.
- **Cross-border recognition for rainbow families:** The recommendation promotes cross-border family recognition for rainbow families, ensuring that families are protected beyond national borders.

The release of GPR No. 17 marks a significant milestone in the Council of Europe’s efforts to protect the rights of LGBTI people. Placing a strong focus on the protection of intersex people, legal gender recognition without abusive requirements, the exploration of non-binary markers, the ban of ‘conversion practices’, and more, this landmark recommendation offers clear and useful guidance for policy-makers at the national level, helping them in making more fair societies for all.

How can activists use this new ECRI recommendation?

GPR No. 17 is valuable for advocacy in that it provides detailed explanations of specific recommendations to Council of Europe countries based on existing Council of Europe standards.

Activists can use the recommendation to support governments as they develop and deliberate new laws and update older laws. It also gives a very clear guide for what the monitoring reviews which ECRI conducts in the Council of Europe will be looking for.

Activists can specifically prepare inputs on the points in GPR No. 17 for both submissions to ECRI in advance of their visits and to prepare for meetings during country visits. ECRI will also use the GPR to formulate the questions they will ask governments during those visits.