

**ILGA-Europe's Response to Consultation on the Annual Work Programme 2010**  
**European Union Agency for Fundamental Rights**  
*(February 2009)*

1. **Name of organisation:** ILGA-Europe (European Region of the International Lesbian, Gay, Bisexual, Transgender and Intersex Association)
2. **Policy area and main activities:** ILGA-Europe works for human rights and equality for lesbian, gay, bisexual and transgender people at European level. To this effect it works towards full recognition of and respect for fundamental human rights; full equality in employment; full social inclusion; recognition and equality of the diversity of families and family relationships; the strengthened capacity of member organizations; and strengthened capacity of ILGA-Europe to achieve its mission.
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ILGA-Europe welcomes the opportunity to contribute to the process of elaboration of the Agency's 2010 work programme. We consider it of great importance to continue and strengthen the dialogue with the Agency. Below are ILGA-Europe's comments on the proposed work programme and suggestions for ways forward.

1. **Discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation and against persons belonging to minorities and any combination of these grounds (multiple discrimination)**
  - *Work on homophobia and discrimination on grounds of sexual orientation (ongoing projects)*

ILGA-Europe welcomed the legal study on homophobia carried out by the Agency in 2008 as the first EU-wide research on discrimination on grounds of sexual orientation and gender identity. Similarly, we look forward to the findings of the sociological study to be published in 2009. The findings and recommendations emerging from these studies constitute crucial evidence for future progress in legislation and policy at European and national level. The proven importance and relevance of such a study has led the Council of Europe to mirror the exercise with its own investigation on the situation of LGBT people in non-EU European countries under the impulse of the High Commissioner for Human Rights. We are thus concerned about the fact that this work was given third priority for 2010. The impact of these studies will truly be observed if the findings and recommendations are widely-disseminated and followed up by EU institutions. ILGA-Europe believes that the Agency has a unique role to play in monitoring progress made on these recommendations and in reminding EU institutions of their obligations and commitments (e.g. implementation of directives on freedom of movement and refugee status, on mutual recognition of partnerships, etc.)

**Research and analysis** – As acknowledged in the 2008 legal study, “the paucity of relevant data across the EU, which could inform about discrimination on grounds of sexual orientation, is striking.” ILGA-Europe considers that the FRA has a clear role to play in remedying this lack of available statistics, especially where lack of data is an obstacle to policy-making which fully takes into account the needs of LGBT people. Existing research gaps include the area of homophobic and transphobic violence and discrimination based on gender identity; data on these phenomena is needed to further show the need for EU legislative action as recommended in the legal study.

**Networking and education** – ILGA-Europe believes that it is important for the Agency to engage in a dialogue with EU institutions on the follow-up to the studies' recommendations. In particular, the FRA should work on mainstreaming LGBT issues in the new Stockholm programme, to request European Commission to initiate work towards a proposal for a Framework Decision on combating homophobia and transphobia, to ensure dissemination of the studies to upcoming EU presidencies with recommendations on how to bring the findings forward. Moreover, ILGA-Europe would encourage the FRA to develop training for judges (European and national level) based on the legal study and to organise presentations of the reports with national human rights institutions and EQUINET (network of equality bodies) to ensure that they are aware of the findings and to get their support in the follow-up work.

**Communication and awareness-raising** – In order to ensure wide dissemination and accessibility of the document, the legal and sociological studies need to be easily available on the Internet. We would encourage the Agency to translate the studies or summaries into national languages; we also suggest the creation of fact sheets summarising the findings and recommendations of the studies to make the work more easily accessible.

- *Multiple and intersectional discrimination on grounds of gender, age and ethnicity in the EU Member States in the area of health (new project)*

**Research and analysis** – ILGA-Europe welcomes the inclusion of a research project on multiple and intersectional discrimination in the work programme given the need to increase knowledge about multiple discrimination. But we regret that this research only includes gender, age and ethnicity and does not cover the grounds of disability, religion and sexual orientation. For instance, ILGA-Europe recently conducted a project on the intersectionality of sexual orientation and age, which clearly showed that there is a cross-over between age and sexual orientation discrimination that affects young and older LGBT people, especially in the area of health. In addition, we call on the Agency to interpret “gender” to include different gender identities and gender expressions.

## **2. The rights of the child, including the protection of children**

In conjunction with the work in the field of the “rights of the child”, ILGA-Europe would like to draw the Agency's attention to one of our recent publications on “The Rights of Children Raised in Lesbian, Gay, Bisexual or Transgender Families”<sup>1</sup> (December 2008). We hope that this report can contribute to and be integrated in the FRA's work.

## **3. Access to efficient and independent justice**

- *Accessing efficient and independent justice (ongoing project).*

ILGA-Europe would welcome the opportunity to contribute to the research on access to justice. There are clear indications coming from NGOs as well as legal experts that a major obstacle to people bringing forward cases of discrimination based on sexual orientation and gender identity is the risk of being exposed and the unwillingness to publicly declare that one's homosexuality, bisexuality and gender identity. There is an identified need to carry out further research on how to enable LGBT people to access their rights in order to ensure that rights provided by existing EU laws are truly enforceable<sup>2</sup>.

- *Equal Justice: Exploring multiple discrimination (new project)*

ILGA-Europe welcomes the research to examine legal mechanisms to address multiple discrimination as it is an area where research is lacking and would welcome the opportunity to contribute.

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<sup>1</sup> [www.ilga-europe.org/europe/publications/non\\_periodical/the\\_rights\\_of\\_children\\_raised\\_in\\_lesbian\\_gay\\_bisexual\\_or\\_transgender\\_families\\_a\\_european\\_perspective\\_december\\_2008](http://www.ilga-europe.org/europe/publications/non_periodical/the_rights_of_children_raised_in_lesbian_gay_bisexual_or_transgender_families_a_european_perspective_december_2008)

<sup>2</sup> See Enabling Lesbian, Gay and Bisexual Individuals To Access Their Rights Under Equality Law <http://www.equality.ie/index.asp?docID=708>