

EU contribution to the 2024 Report of the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions

Introduction

The European Union would like to thank the UN Special Rapporteur for his call for contributions to identify the main issues and challenges regarding the protection of LGBTIQ+ persons worldwide as well as best practices, with a view to offering evidence-based recommendations for improved protection of their right to life.

The contribution from the European Union has been drafted by the European Commission (DG.JUST), in consultation with the European External Action Service (EEAS).

EU internal action

On 12 November 2020, the European Commission adopted the **LGBTIQ equality strategy for 2020-2025**^[1], the first-ever strategic framework at EU level to specifically address the inequalities and challenges affecting LGBTIQ people. The second pillar of the Strategy sets a series of targeted actions to ensure LGBTIQ people's safety, including the following ones:

The Commission works towards the adoption by the legislators of the proposal to revise the **Victims' Rights Directive**, published on 12 July 2023. The proposal aims to further strengthen the rights of victims of crime in the EU, including the rights of vulnerable victims, such as victims of anti-LGBTIQ hate crime. Particularly relevant for victims of anti-LGBTIQ hate crime is the Commission proposal to improve individual assessment of victims' needs, to strengthen support for the most vulnerable victims, to facilitate crime reporting and to improve victims' participation in criminal proceedings. In addition to the legislative initiatives, the Commission conducted in 2023 the "Eyes open" campaign to raise awareness about victims' rights and to promote specialist support and protection for victims with specific needs, such as victims of anti-LGBTIQ hate crime.

In December 2021, the Commission adopted a Communication, accompanied by a proposal for a Council decision, to include hate speech and hate crime in the **list of 'EU crimes'** under Article 83(1) of the Treaty on the Functioning of the European Union (TFEU). Once the Council decision is adopted, the Commission will be able to propose secondary legislation to ensure protection of all individuals and groups at risk of experiencing hate crime and hate speech (at the moment, EU law, the Framework Decision 2008 on combating racism and xenophobia, requires the criminalisation of hate speech only on racist and xenophobic grounds^[1]). Since 2021, discussions in the Council are still ongoing, with a view to reaching the unanimity required for the adoption of this Council decision.

The **High-Level Group on combating hate speech and hate crime**^[2] adopted guidance for national authorities to encourage hate crime reporting, promote collaboration between law enforcement and CSOs, and improve recording and collecting of hate crime data, including with reference to bias-motivated crime against LGBTIQ persons. Member States can also

^[1] [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Union of Equality: LGBTIQ Equality Strategy 2020 – 2025](#), 12 November 2020, COM (2020) 698 final.

^[1] [The Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law](#) (OJ L 328, 6.12.2008, p. 55).

^[2] https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/combating-hate-speech-and-hate-crime_en

draw on technical assistance and capacity building on hate crime offered by FRA, or the OSCE/ODIHR and funded by the European Commission^[3].

The Commission has continued to cooperate with the **EU Agency for Law Enforcement Training (CEPOL)**, international organisations, Member States and civil society organisations in the High Level Group on combating hate speech and hate crime and its various working groups, including the one focused on training for law enforcement. In this framework, the Commission will further support training to help law enforcement officers to identify and record LGBTIQ-phobic bias and increase the accurate reporting of crimes. In April 2024, CEPOL and the Commission jointly organised a conference with representatives from law enforcement agencies across the EU to improve their capacity to respond to hate crime and hate speech, including against LGBTIQ people. A network of national law enforcement contact points specialised in criminal investigations in the area of hate speech and hate crime is expected to be launched in 2024.

The online platforms signatories of the 2016 **Code of conduct on countering illegal hate speech online** are currently negotiating on a revised version of the Code. The aim of the revision is to strengthen the prevention capacity of the Code as well as and to ensure complementarity and added value in relation to the Digital Service Act. The Code will continue to be monitored, including with the help of a network of civil society organisations on the ground, many of which are working on tackling anti-LGBTIQ hate speech.

The Commission adopted on 23 April 2024 a **Recommendation on developing and strengthening integrated child protection systems**^[4], as one of the commitments of the EU Strategy on the rights of the child. LGBTIQ children have a higher risk to face bullying and other kinds of violence. The Recommendation calls, among other things, for inclusive integrated child protection systems, encouraging Member States to take appropriate measures to ensure that children are always treated without any discrimination and in a manner which protects their dignity. They are also encouraged to implement relevant measures related to children, including by fighting discrimination against children and ensuring their protection, notably in the context of the LGBTIQ Equality Strategy.

In May 2024, the EU legislator adopted the [Directive on combating violence against women and domestic violence](#). The Directive acknowledges that lesbian, gay, bisexual, trans or intersex people face a greater risk of experiencing gender-based violence and consequently requires Member States to provide **specific protection and support**. The Directive also requires **targeted prevention measures** to be focused on groups at heightened risk of gender-based violence, such as lesbian, gay, bisexual, trans or intersex people. Finally, where the intention of a criminal offence of gender-based violence was to punish the victim for the victim's sexual orientation or gender, that will constitute an **aggravating circumstance**.

EU external action

The Union's external action concerning LGBTI persons is guided by the [Human Rights and Democracy Action Plan 2020-2024, now extended until 2027](#) alongside the [EU guidelines to promote and protect the enjoyment of all human rights by LGBTI persons](#), adopted at ministerial level.

The **Action Plan** specifically includes the active promotion of measures to prevent enforced disappearances and extrajudicial killings and highlights the need to step up actions to prevent, denounce and combat all forms of discrimination and harassment against LGBTI persons, including the active condemnation and combatting of discriminatory laws and practices, including criminalization of consenting same-sex relations.

^[3] Combating hate speech and hate crime - European Commission (europa.eu)

^[4] https://commission.europa.eu/document/36591cfb-1b0a-4130-985e-332fd87d40c1_en

The **Guidelines** recognise the EU's role in incorporating LGBTI concerns, notably in multilateral fora, on statements and questions during interactive dialogues at the UN, condemning specific violations of human rights such as the use of the death penalty, extrajudicial, summary or arbitrary executions. Additionally, the EU highlights that LGBTI persons who are affected by multiple and intersecting forms of discrimination require specific attention as use of the death penalty, extrajudicial, summary or arbitrary executions might affect them at global scale disproportionately. Reports of LGBTI persons being killed or threatened with killing either by or with involvement of the police or other security officials are indicators that highlight specific targeting of LGBTI persons on the basis of their sexual orientation or gender identity. Reports of UN Special Rapporteurs or other representatives of international organisations are mentioned as reliable sources of information. The **Guidelines** carry a list of operational tools which guide action for addressing these situations in third countries.

In its **bilateral dialogues** with over 60 partners, the EU addresses the rights of LGBTI persons, including legislations criminalizing same-sex relations between consenting adults, and raises individual cases of LGBTI rights defenders at risk.

The EU's Human Rights Defenders mechanism, or [ProtectDefenders](#), was established to protect defenders at high risk and facing the most difficult situations worldwide. It provides practical support through:

- i. emergency financial support to HRDs at risk,
- ii. support to local HRD organisations,
- iii. temporary relocation of HRDs at risk,
- iv. training and information to HRDs at risk and
- v. monitoring and advocacy.

The **ProtectDefenders** mechanism operationalises the EU's commitment to protect HRDs at risk, as laid out in the [EU Guidelines on Human Rights Defenders](#). Over the years, LGBTIQ defenders represent 7% of the total of recipients. In 2023, 30% of beneficiaries were LGBTIQ defenders, the highest share registered since the beginning of the mechanism, highlighting the plight they are increasingly facing. In 2024, ProtectDefenders has already delivered 91 emergency support grants to LGBTI HRDs at high risk and funded the operational survival and continuation of activities for 12 grassroots LGBTI organizations operating in the most challenging environments, including a shelter for LGBTI individuals in East Africa that serves dozens of LGBTI HRDs at risk from across the region.

