



Towards LGBTI+ sensitive justice systems for children in Europe

CHALLENGE PAPER

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The following Network members endorse this Paper: CICS-Nova (Portugal), Children and Young People's Centre for Justice (Scotland), Defence for Children International (Belgium, Greece and The Netherlands), Deutsches Kinderhilfswerk e.V. (Germany), Hrabri telefon (Croatia), Ludwig Boltzmann Institute of Fundamental and Human Rights (Austria), Terre des hommes (Hungary) and Young in Prison (The Netherlands). The Paper is also endorsed by Missing Children Europe (Belgium) and Penal Reform International (International).

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Missing
Children
Europe



**Baker
McKenzie.**



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Acronyms

CFJ	Child Friendly Justice
CFJ-EN	Child Friendly Justice European Network
CoE	Council of Europe
CRC	Convention on the Rights of the Child
EU	European Union
FRA	European Union Agency for Fundamental Rights
IGLYO	International Lesbian, Gay, Bisexual, Transgender, Queer and Intersex (LGBTQI) Youth & Student Organisation
ILGA	International Lesbian and Gay Association
LGBTI+	Lesbian, Gay, Bisexual, Transgender, Intersex, + (Non-binary/Queer)
SOGI	Sexual Orientation and Gender Identity
SOGIESC	Sexual Orientation, Gender Identity and Expression, and Sexual Characteristics
TGEU	Transgender Europe
YP	Yogyakarta Principles

Introduction

"I cannot think of my future here, where I cannot share something like 'who I really am'. Most of us live in fear; we don't know what will happen to us if we go to someone in the justice system. The justice system and the police should be for everyone, regardless of who they are. The invisible harm we are doing [to LGBTI children] doesn't allow us to grow. Harming us – young people – we are harming the soul of society."

(Angela, Young Adult, Romania)

These powerful words were shared by the young activist Angela during the 2021 World Congress on Justice with Children (November 2021, online), whose overall theme was "Ensuring access to justice for all children: towards non-discriminatory and inclusive child justice systems". The Congress was designed to address one of the most current issues that affect child suspects and/or accused of a crime, child victims and any child involved in a legal proceeding: **discrimination**. The lack of equality and the disparity in the access to fair and child-friendly justice services for children coming from minority groups is a global phenomenon that calls for stronger and stronger attention.¹ Discrimination is multi-faceted and **affects different groups in specific ways, thus requiring targeted conversations and actions**. In light of this, the 2021 World Congress prioritized 11 sub-themes, and for the first-time child justice professionals were called to discuss and address "Discrimination due to gender, sexual orientation, and gender identity". Child justice and LGBTI+² experts and practitioners were invited to examine together the challenges that LGBTI+ children in Europe face in accessing a fair justice and to propose concrete solutions and a call for action.

This Challenge Paper, as an initiative of the Child Friendly Justice European Network (CFJ-EN) and of the Global Initiative on Justice with Children, hence, comes as a response to the urgent need to **shed a light on the many ways discrimination can take shape against a child who self-identifies or is perceived as gay, lesbian, bisexual, transgender, intersex or non-binary and is involved in a justice proceeding**. LGBTI+ children have specific vulnerabilities that the justice systems and the main stakeholders should be equipped to address appropriately, to prevent further harm.

This paper aims to make this issue a priority for policy makers and professionals of the justice sector across Europe, to ensure that **all** children's rights are guaranteed.

Discrimination and access to justice for LGBTI+ children in Europe: key data and basic facts

Significant progress has been made over the past decade in the protection of and legislation on anti-discrimination and hate crime, with specific reference to the situation of children and youth.³

In particular at European level, the EU Strategy on the Rights of the Child (2021-2024) and the Council of Europe Strategy for the Rights of the Child (2022-2027) put great emphasis on the fundamental principle of non-discrimination, transversal to all spheres of child protection, and make explicit reference to the specific protection

¹ UN Global Study on Children Deprived of their Liberty, 2019; Justice with children, Global declaration on justice with children 2021, available at <https://justicewithchildren.org/online-2021/global-declaration/>.

² The LGBTI+ acronym will be presented more in detail in the next section. It includes people who identify themselves as lesbian, gay, bisexual, transgender, intersex, and non-binary/queer.

³ Information about progress country by country can be found on Rainbow Europe, a free online collection of data collected by ILGA Europe, with data provided by focal points LGBTI organizations from 49 European countries. Countries are ranked on the basis of laws and policies that have a direct impact on the LGBTI people's human rights under 6 categories: equality and non-discrimination; family; hate crime and hate speech; legal gender recognition and bodily integrity; civil society space; and asylum.

needs for LGBTI+ children as among the most vulnerable groups of children (making reference as well to the FRA survey).⁴ However, **LGBTI+ communities across Europe still face significant barriers in the fulfilment of their rights and in their access to a fair justice**, with children being among the most vulnerable. Within the European Union, there are still countries that register among the lowest rankings in terms of legal and policy advancement towards equality and non-discrimination against LGBTI+ people and that do not provide **basic legal protection to LGBTI+ people against hate crime and discrimination** in all spheres of their lives.⁵

For children, even just being perceived as LGBTI+ is still one of the major causes of **violence in school**⁶, and identify themselves as LGBTI+ is cause of **rejection from their families, stigmatisation and exclusion within the community**. Furthermore, lack of understanding and sensitisation among adults and professionals makes LGBTI+ children who enter in contact with the justice and the child protection systems exposed to (further) victimisation.

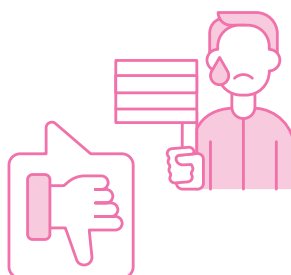
While the lack of research on the experiences of LGBTI+ children in the justice systems in Europe is staggering, the situation that emerges from the data available about experiences of discrimination of LGBTI+ people and specifically of LGBTI+ children in schools and within their communities, is concerning and calls for immediate action. As a matter of fact, while comprehensive and comparable data is limited, data from the 116 000 hotlines for missing children indicates that issues surrounding LGBTI+ identity constitutes one of the reasons why children runaway.⁷

The largest survey on the experiences of discrimination for LGBTI people in the EU and North Macedonia and Serbia was conducted by the European Union Agency for Fundamental Rights (FRA) in 2019, following the first survey conducted in 2012.⁸ Besides being the largest survey of this kind in the EU, it finally includes contrary the age category between 15 and 17, as well as intersex people – not included in the previous FRA survey. Key findings concerning age group 15-17 that should inform any future actions of policy makers and stakeholders who work with children in the field of justice in Europe, include:

53%

Proportion of children aged 15-17 who have experienced **discrimination in some area of life**.

The proportion is even higher for trans (69%) and intersex (62%) respondents aged 15 to 17.



37%

Proportion of children aged 15 to 17 who are almost **never open about being LGBTI**.

47%

Proportion of children aged 15-17 who experienced **harassment** for being LGBTI in the year before the survey. Among all respondents, trans (48%) and intersex (42%) indicate the highest rates of harassment.

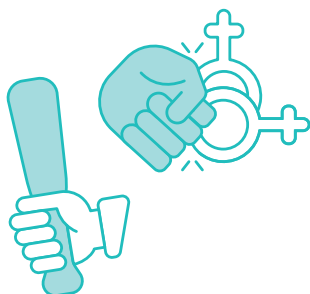
⁴ The EU strategy on the rights of the child is available at https://ec.europa.eu/info/policies/justice-and-fundamental-rights/rights-child/eu-strategy-rights-child-and-european-child-guarantee_en; and the Council of Europe Strategy for the Rights of the Child (2022-2027): "Children's Rights in Action: from continuous implementation to joint innovation" is available at <https://www.coe.int/en/web/children/-/the-new-strategy-for-the-rights-of-the-child-2022-2027-adopted-by-the-committee-of-ministers>.

⁵ Ibidem.

⁶ UN Special Representative of the Secretary-General on Violence Against Children, <https://violenceagainstchildren.un.org/content/most-vulnerable-children>.

⁷ Missing Children Europe, Figures and trends 2020 from hotlines for missing children and cross-border family mediators. Available at <https://missingchildreneurope.eu/?wpdmdl=2558>

⁸ European Union Agency for Fundamental Rights, A Long Way to Go for LGBTI Equality. (LU: Publications Office, 2020), <https://data.europa.eu/doi/10.2811/582502>: this report presents select findings from FRA's 2019 survey on LGBTI people in the EU and North Macedonia and Serbia, that involved almost 140,000 participants.



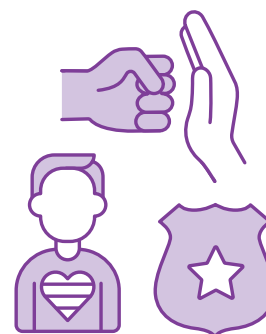
11%

Proportion of LGBTI children aged 15-17 who have experienced a **physical or sexual attack** in the 5 years before the survey due to being LGBTI – particularly likely to experience physical or sexual attacks in school, in most cases by peers.

25%

The average of all respondents in the EU who mentioned **fear of a homophobic and/or transphobic reaction from police** as the reason for not reporting a physical or sexual attack.

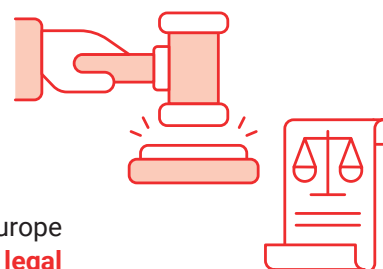
32% is the average among trans respondents across the EU.



Other fundamental data and facts about the realities of LGBTI+ people, including children, come from key stakeholders in Europe who document the experiences and protect the rights of LGBTI+ people: ILGA Europe⁹, IGLYO¹⁰, Transgender Europe (TGEU)¹¹ and OII Europe¹². They address the overall situation of LGBTI+ communities across Europe and provide key elements in better understanding why action is needed to protect the rights of LGBTI+ children involved in legal proceedings:

A severe rise in the anti-LGBTI rhetoric

has been observed across Europe and Central Asia in 2021, with an increase in violence and hate crimes against LGBTI+ people, especially youth.¹³



Only 10 countries – out of 54 in Europe and Central Asia – **enable children to access legal gender recognition** without any age limit.¹⁴



Several suicides and self-harm practices have been reported by ILGA in the 11th Annual Review, including a 14-year-old girl in France who took her life after being victim of homophobic and Islamophobic bullying.¹⁵

⁹ TILGA-Europe is an independent, international non-governmental umbrella organisation uniting over 600 organisations from 54 countries across Europe and Central Asia. See <https://www.ilga-europe.org>.

¹⁰ The International Lesbian, Gay, Bisexual, Transgender, Queer and Intersex (LGBTQI) Youth & Student Organisation is the world's largest LGBTQI youth and student network, counting more than 100 Member Organisations in over 40 countries across the Council of Europe Region. See <https://www.iglyo.com>.

¹¹ TGEU is a member-based organisation created in 2005. Since then, TGEU has kept growing and established itself as a legitimate voice for the trans community in Europe and Central Asia with 195 member organisations in 48 different countries. See at <https://tgeu.org>.

¹² Organisation Intersex International Europe is the umbrella organisation of European human rights based and intersex-led organisations and works for the protection of intersex persons' human rights in Europe and Central Asia.

¹³ ILGA 11th Annual Review at <https://ilga-europe.org/files/uploads/2022/04/annual-review-2022.pdf>.

¹⁴ Trans Rights Map, Europe and Central Asia, 2022. Available at <https://transrightsmap.tgeu.org>.

¹⁵ In addition to that, ILGA reports that "Over half of LGBTI students in Denmark had suicidal thoughts or self-harmed, while 82% of LGBTI students in Northern Ireland have thought of suicide. 80% of LGBT students feel unsafe in school in Ukraine and 40% missed school only this past month because of this.". See the ILGA 11th Annual Review.

The issue of **homelessness** severely affects **trans people**, with greater impact on youth. It is concerning that 5% of all homeless trans people are aged 15 to 17. Young people are at greater risk of being exploited, experiencing trauma, and being trapped in cycles of homelessness.¹⁶

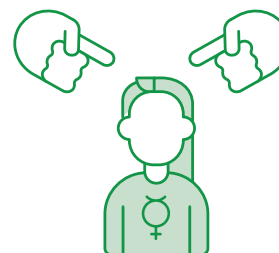


An estimated **20% to 40% of teenagers who are homeless identify as LGBTQ**, compared with 4% to 10% of non-homeless peers.¹⁷



Sex-“normalizing” surgeries on intersex children are still very common across countries, often leading to long-term psychological trauma.¹⁸ According to the FRA survey, 62% of intersex respondents were subjected to surgery without any prior, full informed consent.

Trans and non-binary youth are particularly vulnerable to discrimination in education and beyond. Indeed, many trans and non-binary people become conscious of their gender identity at an early age.¹⁹



¹⁶ TGEU, Coming Home: homelessness among trans people in the EU, 2021.

¹⁷ American academy of paediatrics: <https://publications.aap.org/pediatrics/article/145/2/e20193752/68225/Runaway-Youth-Caring-for-the-Nation-s-Largest?autologincheck=redirected?nfToken=00000000-0000-0000-0000-000000000000>. This data also appears in: Missing Children Europe, Figures and trends 2020 from hotlines for missing children and cross-border family mediators. not based on MCE research.

¹⁸ ILGA and OII Europe, Protecting intersex people in Europe: a toolkit for law and policymakers, 2019.

¹⁹ IGLYO, 2nd edition of the LGBTQI Inclusive education report 2022.

About the paper

Who are we talking about?

This Challenge Paper looks at the **discrimination and barriers experienced at the intersection of:**



- 1 Age
- 2 Sexual orientation and/or gender identity and/or sexual characteristics
- 3 Contact with justice systems

In other words, it focuses on:

Children who, for whatever reason and in whatever capacity, are brought into contact with competent bodies and services involved in implementing criminal or administrative law, and are subjected to discrimination because they identify themselves as **LGBTI+** or because they are perceived as LGBTI+, regardless of their own self-identification.

Three components are key in the understanding of the specific group that this paper wants to put the attention on:

- **Being a child:** in compliance with the definition of child of the UN Convention on the Rights of the child, a child is every person below the age of 18
- **Being involved in a criminal and administrative proceeding:** every child who is a party in such proceedings, as victim, suspect, accused, convicted, witness or third party, and for that reason enters in contact with the respective competent authorities.²⁰
- **Being self-identified or perceived as LGBTI+:** notwithstanding that the right to privacy and to personal identity are paramount, discrimination based on sexual orientation, gender identity/expression and gender characteristics occurs also against people – and in this case children – who are perceived not to conform to prevailing sexual and gender norms, whether they self-identify as LGBTI+ or not.

The **appropriate use of language that does not offend, that respects and makes LGBTI+ children** (and people more generally) **feel safe, as well as the use of the correct pronouns and names with which each person identifies** are the first steps for meaningful inclusion and protection of their rights and integrity.

Hence, **this Challenge Paper puts a great, necessary emphasis on the correct understanding of terms and words**, and on the appropriate use of them, confronting internalised bias and stereotypes that so much affect the LGBTI+ community.

²⁰ See under the section “What to expect in this Challenge Paper” of this paper the rationale behind the choice of specifically criminal and administrative proceedings.

²¹ Robin McHaelen and Diane Elze, “Moving the Margins: Training Curriculum for Child Welfare Services with Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ) Youth in Out-of-Home Care” (National Association of Social Workers and Lambda Legal Defense & Education Fund, 2009).

“Pronouns are important, they make me feel safe, comfortable, respected. They are not preferred, they are deserved”

(Zackery, They/she)

“Pronouns validate who a person is, make that person seen”

(Mollee, She/her)








Internalised bias – such as the set of personal, cultural, religious values and beliefs that, when left unexamined and unquestioned, can negatively affect the relations among people²¹ - often leads to stereotyping and inappropriate use of language. **Stereotypes and use of derogatory language can make serious harm** to the people who are subjected to them, especially to children and especially when related to such an important part of the person: the identity.

Hence, this Challenge Paper comes with an [LGBTI+ glossary of terms](#) as Annex: an **important tool** that we **invite professionals working with children to consult**, to facilitate their understanding of the experiences of discrimination LGBTI+ children face and of what they can, as individuals, do to prevent that to happen from the first moment they enter in contact with a child.

To facilitate the discussion and the reading of the present paper, the table below also clarifies the **acronym LGBTI+** and what each letter stands for. It is worthy to emphasise that **the group under this umbrella acronym** is extremely **heterogeneous** and each sub-group under each letter is not rigidly delimited, as a person can identify as LGBTI+ in multiple ways: this means, in practice, as an example, that a lesbian girl can also be transgender, intersex or non-binary. The (+) in the acronym includes as a matter of fact all those who do not find full identification within the other groups and who do not conform to prevailing sexual and gender norms.

Furthermore, sexual orientation, gender identity and expression are fluid aspects of each person’s identity and as such **self-identification is a private and individual process**.

Hence, the discussion that this paper aims at initiating is not about this private process, which is personal for each individual, but **about the ways – often still discriminatory – in which societal systems, including justice systems, respond to such diversity of personal identities**. In looking at these responses, this discussion aims also to **propose ways in which we, as professionals working with children, can be inclusive, LGBTI+ sensitive and supportive** of each and every child, regardless of their multi-faceted identities.

	LESBIAN (L)	Woman/Girl who is attracted (sexually and/or romantically) to the same sex/gender
	GAY (G)	Man/Boy who is attracted (sexually and/or romantically) to the same sex/gender
		BISEXUAL (B)
		People/Children who are attracted (sexually and/or romantically) to more than one sex/gender
	TRANSGENDER (T)	People/Children whose gender identity and/or expression is different from cultural expectations based on the sex they were assigned at birth
	INTERSEX (I)	People/Children whose biological bodies (e.g., reproductive or sexual anatomy) do not fit the social expectations of ‘male’ or ‘female’
	QUEER/NON-BINARY/ OTHER IDENTITIES (+)	‘Umbrella’ term for multiple gender identities, sexual orientations, and other groups within the LGBTI+

Why is this Challenge Paper relevant for child justice professionals?

As the evidence offered in the introduction and in the following section shows, notwithstanding the wide recognition by international norms and standards of the obligation falling on States to protect all children from violence and discrimination and to ensure their best interests in all matters that concern them, **discrimination on the ground of sexual orientation, gender expression, gender identity and sex characteristics (SOGIESC) is still a reality in all settings, including the justice systems**. Protection of LGBTI+ children is not in the focus of policy makers and professionals working with children yet, and a concerning lack of disaggregated and comprehensive data is observed.

A general **prevalence of stereotyping narratives about the LGBTI+ broad population hampers the understanding and acceptance of families, teachers, community members, educators, justice professionals and social services** about being LGBTI+, about the specific needs of LGBTI+ children to which responses should be tailored, and about the specific experiences of discrimination that children can experience as a consequence of self-identifying or being perceived as LGBTI+.

When it comes to justice systems, a growing body of research shows the harmful effects of detention and of the justice proceeding itself on all children – regardless of their individual characteristics – but also how being part of a minority group adds an additional layer to the risk of being victimised and of seeing their rights not fully upheld.²² **Discrimination in the justice system** (including in detention practices) is in fact **widespread and remains inadequately addressed**.²³ Specifically, the **discrimination against LGBTI+ children within the justice system remains a significant issue that needs to be addressed** with urgency by the international community. The **lack of data in Europe is thus a great challenge** for documenting the experiences of these children and designing appropriate responses within the justice system, institutions of care, support frameworks and other settings.²⁴

Justice systems are not sufficiently LGBTI+ sensitive and capacity building or sensitisation activities for professionals are scarce. Without this guidance to address the specific needs of LGBTI+ children when they enter in contact with the justice system, children are put at higher risk of being victimised and discriminated against. LGBTI+ children deprived of liberty, in various settings, or in contact with the police are exposed to specific vulnerabilities, and professionals working with them are not equipped with appropriate training and specific sensitiveness.²⁵

The UN Global Study on Children Deprived of their Liberty also reports that, across the globe, “LGBTI young people are not only exposed to extreme vulnerability because of discriminatory laws which eventually contribute to their deprivation of liberty²⁶, but they are also often denied legal protection and access to remedies when they suffer acts of violence within detention facilities.”²⁷

²² MacAra, L., and McVie, S., Youth Justice? The impact of system contact on patterns of desistance from offending, *European Journal of Criminology*, Volume 4 (3): 315–345, 2007; Petrosino, A., Turpin-Petrosino, C., Hollis-Peel, M.E., and Lavenberg, J.G., Formal processing of juveniles: effects on delinquency, *Campbell review* 2010; UN Global Study on Children Deprived of Liberty, 2019.

²³ UN Global Study on Children Deprived of Liberty, 2019.

²⁴ UN Global Study on Children Deprived of Liberty, 2019, p. 242.

²⁵ UN Global Study on Children Deprived of their Liberty, 2019.

²⁶ The UN Global Study refers here to those National laws – across the globe – which contain provisions that punish or discriminate against young people based on their sexual orientation, gender identity or gender expression. Almost half of the world population live in the 70 countries in which existing laws criminalise conducts based on sexual orientation. Although this does not specifically apply to Europe, it is relevant to several countries as lesbian, gay, bisexual, transgender, and intersex (LGBTI) young people are more likely to be arrested and detained for status offences, for being on the street and other nonviolent offences. In addition, European countries should provide appropriate sensitive assistance to LGBTI+ children that arrive as asylum seekers or migrants fleeing from countries that criminalise conducts based on sexual orientation.

²⁷ UN Global on Children Deprived of their liberty, p. 240. See also UN Human Rights Council, Report of the UN Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity, A/HRC/35/36, April 2017, and UN General Assembly, Protection against violence and discrimination based on sexual orientation and gender identity, A/72/172, July 2017.

Whom is this Challenge Paper for?

This Challenge Paper is for **policy makers and professionals working with children who are involved in criminal and administrative proceedings** as suspects, accused or convicted of a crime, victims of a crime, witnesses, and third parties.

It offers some actionable recommendations for **policy makers to inform child-centred and LGBTI+ sensitive provisions and guidelines**, and for professionals to improve their understanding of LGBTI+ children needs and barriers to fair justice systems and to learn how individual and systemic change is needed to make things better for these children.

The Challenge Paper aims to also reach for **professionals and experts for the protection of LGBTI+ rights**, to shed light on the specific experiences of LGBTI+ children within the justice systems and to inspire targeted research and action.

Objectives and approach

It is the objective of this Challenge Paper to reach relevant national and international stakeholders and provide important information on the experiences of discrimination of LGBTI+ children in Europe who are involved in criminal and administrative proceedings.

This Challenge Paper aims to bring to the **attention of policy makers and professionals working with children which are the specific needs and barriers that LGBTI+ children can and do experience when they enter in contact with the justice systems**.

It intends to bring on the table a discussion that for far too long has been taboo. It intends to advocate for research that “needs to be done now more than ever, since invisibility has been perpetuated for such a long time” (prof. Angela Dwyer, during her plenary speech at the European day of the 2021 World Congress). As a matter of fact, **this paper strongly advocates for further data collection**, in line with UN Independent Expert on protection against violence and discrimination based on Sexual Orientation and Gender Identity who so reported: “Data is crucial to creating visibility and building an evidence base of human rights abuses and potential responses to them. Currently, there are serious gaps in available data to capture the lived realities of lesbian, gay, bisexual, trans and gender-diverse persons. Some States deny the existence of violence and discrimination against LGBT folks, or even the presence of LGBT persons in their jurisdiction. Where prejudice or criminalization exist, rates of non- or under-reporting of violence and discrimination tend to be higher.”²⁸

The objective of this paper is, in other words, to **raise awareness about the different shapes that discrimination against LGBTI+ children involved in criminal and administrative proceedings can take**, and thus to propose a child-rights-based and LGBTI+ sensitive frame that is aware of the intersectionality between gender identity, sexual orientation, sexual characteristics, age and experience of children with the justice system.

The approach used for the development of this paper is based on the concept of “intersectionality” that allows us to understand and provide responses to the ways in which age intersects with other identities – such as sexual orientation, gender identity and expression, and sexual characteristics – and how these intersections generate specific experiences when the child is in contact with the justice systems. Hence, these intersections are analysed through a combined lenses that sees the child-rights and child-friendly justice legal frameworks meet the LGBTI+ rights one.

This approach shall allow policy makers and justice professionals who will read this brief to **understand the specific experiences of LGBTI+ children within the justice system, to identify the nuances of their situations**, and to learn how our laws, policies and actions can be oriented to being inclusive, sensitive, and aware of the differences.

²⁸ Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Report on data collection and management, A/HRC/41/45, May 2019.

⊙ The experiences of discrimination for LGBTI+ children are different than for adults

→ Age adds a layer of challenge: children as a matter of fact are often not taken seriously and the same applies to their expressed sexual orientation and/or gender identity.

⊙ Specific grounds of discrimination based on sexual orientation, gender diversity and sexual characteristics need to be identified separately from the general category of “gender”

→ To ensure that the specific experiences of discrimination of LGBTI+ children within the justice systems will not fall through the cracks of existing policies and guidelines, and these issues will not be silent anymore, it is of key importance to address them as a distinct ground of discrimination than gender, although in intersection with it (which means that the gender dimension cannot be overlooked when analysing any other grounds for discrimination).

As highlighted in the UN Global Study for Children Deprived of Liberty: “Due to the limited data collection capacities as well as lack of awareness, **children are usually represented as a homogenous group** and States rarely provide disaggregation by other features than age and sex. At the same time, during the research phase some groups were found to be particularly vulnerable, e.g., children with disabilities, foreign nationals or LGBTI children. Lack of properly disaggregated data significantly impedes mitigating, identifying and counteracting discrimination.”²⁹

Scope and rainbow tables

Scope and focus thematic areas

The area of justice is vast and diverse, and so can be the experiences of LGBTI+ children in contact with justice. For this reason, it appeared soon very clear the necessity to narrow the scope of this Challenge Paper down to **criminal and administrative proceedings**.

The selection is based on the expertise available in the pool of experts and organisations involved, as well as in the availability of existing resources. It does not imply that civil proceedings are in any way spared of discrimination and barriers for LGBTI+ children. On the contrary, we believe that – nonetheless keeping in mind the specificities of civil proceedings – similar barriers and issues to the ones faced by LGBTI+ children involved in criminal and administrative proceedings can be found in any justice proceeding and any contact of these children with specific authorities and services. The recommendations proposed in this Challenge Paper can thus be transposed to civil justice, with the appropriate adaptations to the specific context, and the **call for research and data collection applies also to civil justice proceedings**.

In the framework of criminal and administrative proceedings, still the path of a child can be very long and complex, and it includes a variety of phases, actors involved and barriers. Facing the unlikely mammoth task of looking into each and every step of the proceedings, three **macro areas have been selected to start focusing the discussion about discrimination against LGBTI+ children as well as opportunities for prevention and resolution**:

➡ **Contact and interaction with the police**

➡ **Deprivation of liberty**

➡ **Support systems**

Existing research on the experiences of children involved in criminal and administrative proceedings shows how the **contact with the police and deprivation of liberty (in any phase of the proceedings) are the most delicate moments in the encounter of the child with the justice system**, and where children are mostly exposed to violations of their rights.³⁰ This evidence is confirmed by the research conducted mostly in the US and in Australia on the specific experiences of LGBTI+ children in contact with the police and who are deprived of their

²⁹ UN Global Study on Children Deprived of Liberty, 2019 p. OHCHR, A Human Rights-Based Approach to Data: Leaving No One Behind in the 2030 Agenda for Sustainable Development, 2018, p. 7.

³⁰ UN Global Study of Children Deprived of Liberty, 2019.

liberty. On the other, distinct but complementary ends of the proceedings, the support systems (family, school, community, health, protection, ...) **play a key role in preventing all children, thus also LGBTI+ children, to enter in contact with the justice system**, supporting them during the proceedings and facilitate their reintegration after that. As the research presented later will show, **LGBTI+ children still face, across countries, a concerning lack of support and protection in all spheres of their lives: which is why we believe in the inescapable effort that needs to be done to make these children feel safe** as the first step to ensure them a the right to a fair access to justice, procedural rights, child-sensitive and LGBTI+ sensitive proceedings.

The focus on these three thematic areas does not, however, claim to be exhaustive: further and similar barriers are encountered by LGBTI+ children in all phases of criminal and administrative proceedings. It is the hope of this Challenge Paper to be **just a first step into further research and actions to address all of those phases and reach out to all the actors respectively involved**.

Concrete examples of discrimination and possible resolutions: the rainbow tables

As mentioned earlier, the objective of this Challenge Paper is to **show the many (not all) shapes that discrimination against LGBTI+ children can take when they enter in contact with justice systems**, and to **propose opportunities to resolve or prevent that discrimination**.

Under each of the three thematic areas, a **rainbow table** will present **concrete examples of discrimination** that children can experience when belonging to each specific group under the LGBTI+ umbrella. These examples are not direct testimonies, because of the dire lack of research on the actual experiences of LGBTI+ children in the justice systems across Europe. They are however taken from real life experiences of LGBTI+ children extracted from the existing literature (mostly from the US and Australia) and from the experiences of LGBTI+ experts and activists working with children and young people who substantially contributed to the development of this paper.

Each of those **rainbow tables** of examples will include the main, overarching children rights threatened, specified as a reference in the upper part of each table; and practical resolutions on how to prevent and respond to such forms of discrimination are offered under “what is needed”. It will look as follows:

Children rights threatened: ...		
Target group	Examples of issues	What is needed
L		
G		
B		
T		
I		
+		

!! When reading these examples, be mindful that:

- ➔ Some examples/experiences are very specific to one of the groups in the LGBTI+ community (L, G, B, T, I or +), but many can also be observed transversally to all the groups and are not exclusive of one specific category
- ➔ The examples provided are not exhaustive of all the several, specific barriers and discrimination that each and every LGBTI+ child can experience in their contact with the justice systems and also resulting from the intersection with several other possible characteristics of their identity (such as gender, disability, migrant background, ...)
- ➔ A single child could be victim of multiple forms of discrimination, as they can self-identify as LGBTI+ in more than one way (for example, they could be gay and transgender).

The legal frameworks

The object of analysis of this paper is the intersection of different circumstances and the potential experiences of discrimination that can occur at the intersection of being a child, self-identifying or being perceived as LGBTI+, and being involved in a criminal or administrative proceeding. As a result, the legal framework that provides protection is multifaceted and needs to be looked at comprehensively.

Children rights

The universal rights of children are codified in a number of legally binding treaties and international standards, most importantly the 1989 UN Convention on the Rights of the Child (CRC), the most widely ratified human rights treaty and the most comprehensive articulation of the rights of children in international law.

Notwithstanding that **all CRC provisions apply** to the group of children that is the focus of this Challenge Paper, the following **guiding principles** of the CRC and **some specific provisions** are **especially relevant** in this conversation and will be recurrently referred to throughout the paper:

- **Non-discrimination:** all the rights guaranteed by the CRC must be available to all children without discrimination of any kind (art. 2)
- **Best interests of the child:** the best interests of the child must be a primary consideration in all actions concerning children (art. 3)
- **Survival:** every child has the right to life, survival and development (art. 6)
- **Right to identity:** every child has the right to preserve their identity, and to be provided assistance and protection when they are deprived of some or all of the elements of their identity (art.8)
- **Child participation:** the child's view must be considered and taken into account in all matters affecting him or her (art. 12)
- **Right to privacy:** every child has the right to their privacy against arbitrary and unlawful interferences and to be protected by the law against such interferences (art.16)
- **Protection against violence:** States have to commit to protect children from all forms of violence (art.19), which apply to all settings, including justice systems and proceedings
- **Protection of unaccompanied or migrant children:** States commit to ensure that a child who is seeking refugee status or who is considered a refugee shall receive appropriate protection and humanitarian assistance in the enjoyment of their rights (art. 22)
- **Right to health:** every child has the right to enjoy the highest attainable standard of health and to access to the appropriate facilities and health care services. States should take appropriate measures to ensure the full implementation of this right, including measures for the abolishment of traditional practices that are prejudicial to the health of children (art. 24)
- **Protection from sexual exploitation and abuse, and from trafficking:** States commit to protect all children from the exploitative use of children in all forms of sexual exploitation, including prostitution (art. 34), and from the abduction, sale or traffic in children (art. 35)

The rights of children in the justice systems

Under international law, children have the fundamental right to access to justice i.e. the right to access a remedy when their rights are being violated.³¹ Access to justice for children partly rely on and is closely linked to the existence of child friendly justice systems: systems in which the right of the child to participation, to have their best interests taken into account as a primary consideration, to dignity, to non-discrimination, to due process and to access appropriate independent and effective complaints mechanisms are effectively applied.

Besides the provisions highlighted above, which concern the protection of all children, there are articles in the CRC which specifically relate to children in contact with the law:

- **Protection of child victims of crime:** States commit to ensure physical and psychological recovery of all child victims of any kind of abuse, violence and crime, providing a safe environment that fosters their health, self-respect and dignity (art.39).
- **Rights and safeguards in detention:** all children in conflict with the law have the right to procedural safeguards, among others: no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment; the arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; and every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age.
- **Right to a fair trial:** every child alleged as, accused of, or convicted for an offence has the right to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, and in the full respect of procedural safeguards and the rule of law, including the right to legal and other appropriate assistance, and to have their privacy respected.

The rights and safeguards for children in the justice system established in the CRC are reinforced by other international instruments, collectively referred to as the UN Minimum Standards and Norms on Juvenile Justice: the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules, 1985), the UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines, 1990), the UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules, 1990) and the UN Guidelines for Action on Children in the Criminal Justice System (Vienna Guidelines, 1997).

At European level, the **Council of Europe Child Friendly Justice Guidelines (2010)** are a core reference which explain child friendly justice principles that reflect international human rights standards.³² These Guidelines aim to ensure that whenever children enter in contact with the law and are involved in a procedure, children see their fundamental rights respected and implemented. It therefore applies to all situations in which children are likely to be, for whatever reason and in whatever capacity, brought into contact with all competent bodies and services involved in implementing criminal, civil or administrative law.³³ Child-friendly justice is also an integral part of main thematic priority areas in the CoE Strategy on the Rights of the Child as well as in the EU Strategy on the Right of the Child.³⁴

The EU commitment to the protection of the rights of children in contact with the law includes two key Directives, the most relevant binding EU instruments in this area: the **Directive 2012/29/EU** (hereinafter referred to as **Victims' Directive**) and the **Directive (EU) 2016/800 on procedural safeguards for children who are suspects or accused persons in criminal proceedings**.

³¹ Liefwaard T., Access to Justice for Children: Towards a Specific Research and Implementation Agenda, *International Journal of Children's Rights* 27 (2019), p. 195 – 227, available online: https://www.researchgate.net/publication/333113855_Access_to_Justice_for_Children_Towards_a_Specific_Research_and_Implementation_Agenda (..) "The concept of access to justice for children has nevertheless emerged in the past decades and manifested itself firmly in the international human rights and sustainable development agendas. Access to justice is grounded in the right of the child to seek remedies in case of (alleged) rights violations."

³² Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice, adopted on November 2010, available online: <https://rm.coe.int/16804b2cf3>

³³ Ibid., I.2 page 16.

³⁴ EU strategy on the rights of the child (2021-24): https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12454-Delivering-for-children-an-EU-strategy-on-the-rights-of-the-child_en; Council of Europe, Strategy for the Rights of the Child (2022-2027), available at <https://www.coe.int/en/web/children/strategy-for-the-rights-of-the-child>.

Under the Victims' Directive, children are always considered as vulnerable victims, especially those suffering from secondary and repeated victimisation, of intimidation and of retaliation. As such they should benefit from the specific protection, advocacy and specific services reserved for children as direct or indirect victims (artt. 23, 24, 38, 57) and should exercise those rights in a manner that considers their capacity to form their own views (art. 14).

The Directive (EU) 2016/800 provides a number of procedural safeguards for children who are suspected or accused of having committed a criminal offence, including provisions for legal assistance, right to information on their rights, the right to individual assessment, to a medical examination, and to audio-visual recording of questioning. It also provides special safeguards for children during deprivation of liberty.

Both Directives set up two provisions particularly relevant for the present discussion:

- A general principle according to which the **child's best interests** should always prevail in its application in accordance with the Charter of Fundamental Rights of the European Union (art.24) and the CRC (art.3)³⁵: a child-sensitive approach that takes into due account the child's age, maturity, views, needs and concerns, shall prevail.
- The child's **right to an individual assessment**, both when they are victims (Victim's Directive art. 22) and when they are suspects or accused in criminal proceedings (Directive 2016/800 art. 7). A multi-disciplinary and robust individual assessment conducted at the earliest stage possible is essential to guarantee the full exercise of the other rights and safeguards for the child in contact with the justice systems. It is a crucial tool to activate an overall fair and child-centred justice process, where the child is first and foremost looked at as a child.³⁶ The individual assessment shall, in particular, take into account the child's personality and maturity, the child's economic, social and family background, and any specific vulnerabilities that the child may have [art.7 Directive 2016/800]. During the assessment, it is necessary to ensure that the child is informed in the appropriate way, s/he is given the proper opportunity and conditions to form his or her own views and express those views freely, in accordance with his/her age and maturity.

These two provisions are strongly linked one another: **a multidisciplinary and holistic assessment provided at the earliest stage possible will in fact allow the best interests of the child to be a primary consideration in proceedings**, for example by supporting access for children to the available support services measures. Furthermore, an individualised and multidisciplinary approach is crucial to avoid discrimination: in particular where it identifies children's diversity/ies as encompassing strengths and vulnerabilities that need to be addressed rather than discriminated against.

LGBTI+ children rights

An additional layer of protection, besides the one provided by the international and European laws and standards cited, needs to be taken into account for children who are in contact with the law and who identify themselves as LGBTI+, as well as who are victims of discrimination because they do not conform to mainstream gender norms regardless of their self-identification as LGBTI+.

As already emphasised, non-discrimination is a fundamental right of all children, as one of the guiding principles of the CRC, (art.2) and it is central in effective access to justice and child friendly justice. Discrimination based on sexual orientation, gender identity or sex characteristics is prohibited under CoE and EU law. **Under EU law, both gender equality and anti-discrimination legal frameworks are key regarding fundamental rights of LGBTI+ children**: the first apply to discrimination based on sex (including gender reassignment) and the second apply to discrimination based on sexual orientation.³⁷

³⁵ Art. 14 of Victim's Directive and 8) from the general considerations of the Directive 2016/800.

³⁶ With reference to particularly vulnerable categories of child victims, the EU Directive 2011/92 on combating the sexual abuse and sexual exploitation of children and child pornography (recital 30) and the EU Directive 2011/36 on preventing and combating trafficking in human beings and protecting its victims (art. 16), also include provisions on individual assessment for children, conducted in their bests interest.

³⁷ European Union Agency for Fundamental Rights and Council of Europe, Handbook on European law relating to the rights of the child, 2022 edition, page 68, available online: https://fra.europa.eu/sites/default/files/fra_uploads/fra-coe-2022-handbook-child-rights_en.pdf

Regarding access to a fair justice for LGBTI+ children, the **CoE framework clearly addresses discrimination and the Child-Friendly Justice Guidelines provide that the rights of children shall be secured without discrimination** on any ground such as sex, sexual orientation or gender identity.³⁸ The EU legal framework also points in this direction. The EU Victims' directive 2012/29 specifies that Member States shall ensure that victims, including children, are recognised and treated in a non-discriminatory manner in all contacts with the justice system, where discrimination includes based on gender, gender expression, gender identity and sexual orientation (9). The EU Directive 2016/800 on procedural safeguards for children who are suspects and/or accused in criminal proceedings also specifically states that safeguards should apply without any discrimination based on any ground including sex or sexual orientation (65).

While the children's rights and child justice frameworks already provide a very solid legal protection for LGBTI+ children in contact with the law, an additional layer of protection is provided by legal standards and instruments developed for the **specific protection of the rights of LGBTI+ people**.

At International level, a key reference is the **Yogyakarta Principles**, which are a set of principles on the application of international human rights law in relation to sexual orientation and gender identity affirming binding international legal standards. These Principles were developed and adopted in 2006 by a distinguished group of experts from different regions and backgrounds.³⁹ In 2017, 10 additional Principles, specifically on Gender Expression and Sex Characteristics, were adopted to complement the YP. The YP plus 10 particularly refer to the rights of LGBTI+ people to safety (6), to freedom from arbitrary deprivation of liberty (7), to a fair trial (8), to treatment with humanity while in detention (9), to freedom from torture and cruel, inhuman or degrading treatment or punishment (10), to seek asylum (23), to effective remedies and redress (28), accountability (29), to state protection (30), to legal recognition (31), to freedom from criminalisation and sanction (33), to truth (37).

Seeking LGBTI+ sensitive justice systems for children in Europe means, in other words, seeking the implementation of their rights under international law. It implies, among others:

- Non prosecution (civil or criminal) based on gender identity, expression or sexual orientation
- Non-discriminatory proceedings and fair disposition of justice
- Access to child-friendly and LGBTI+ sensitive procedures of individual assessment to identify their specific needs and strengths, with their best interests as primary consideration and in full compliance with their right to privacy and with their rights to a fair justice
- Access to effective remedies in case of violation of rights
- Special protective measures especially in situation of deprivation of liberty
- A suitable asylum framework, accountability for human rights violations, monitoring and documentation of human rights violations of LGBTI+ children

This may require States to adopt legal, administrative or other measures such as training and awareness-raising of professionals, establishment of truth-seeking mechanism or monitoring bodies.

³⁸ Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice, adopted in November 2010, III.D.1. page 19, available online: <https://rm.coe.int/16804b2cf3>

³⁹ Including judges, academics, a former UN High Commissioner for Human Rights, UN Special Procedures, members of treaty bodies, NGOs and others, and led by the Rapporteur of the process, Professor Michael O'Flaherty, currently Director of the European Union Agency for Fundamental Rights. For more info, see at <http://yogyakartaprinciples.org/principles-en/about-the-yogyakarta-principles/>

Towards LGBTI+ sensitive justice systems for children

As mentioned earlier under the scope of this paper, three macro areas have been chosen to start focusing the discussion about discrimination against LGBTI+ children as well as opportunities for prevention and resolution:

- ➔ Contact and interaction with the police
- ➔ Deprivation of liberty
- ➔ Support systems

Making use of the data available and the experience of the experts involved in the development of this paper, under each section a rainbow table will be provided, with concrete examples of ways in which discrimination and victimisation of LGBTI+ children can occur through the different phases. The main, overarching children rights threatened are specified as a reference in the upper part of each table. And practical resolutions on how to prevent and respond to such forms of discrimination are offered under “what is needed”.

As explained above, when reading these examples of life experiences, please be mindful that:

- 1 Some examples/experiences are very specific to one of the groups in the LGBTI+ community (L, G, B, T, I or +), but many can also be observed transversally to all the groups and are not exclusive of one specific category.
- 2 The examples provided are not exhaustive of all the several, specific barriers and discrimination that each and every LGBTI+ child can experience and resulting from the intersection with several other possible characteristics of their identity (such as gender, disability, migrant background, ...).
- 3 A single child could be victim of multiple forms of discrimination, as they can self-identify as LGBTI+ in more than one way (for example, they could be gay and transgender).

1. LGBTI+ children and interaction with the police



“If you’re dealing with police, my experience is don’t flaunt it. Do not act gay, do not sound gay, because they’ll pick that up and... they’ll start hassling you. If you do have to deal with police act as butch and act as straight as possible or they get discriminative [sic] type of thing.”

(Pinky, 18, gay male)

The first contact of children with the justice system often happens at the level of the police and it represents the most delicate moment for the child – in whatever capacity they are involved – as the way in which the police respond will have long-term consequences on the continuation of the proceeding and on the overall experience of the child with the justice system.⁴⁰

In many countries across Europe, police still do not receive specialised training to work with children, and there are no available child-friendly guidelines on how to assess the specific needs of LGBTI+ children when they enter in contact with the law – either as victims or suspects – and to provide tailor-made responses. Police officers, social workers and lawyers – who are most of the time the first people with whom children enter

⁴⁰ UN Global Study on Children Deprived of their Liberty, 2019

in contact – but also probation officers, judges, public prosecutors, mediators, are generally not exposed to sensitisation and capacity building efforts on LGBTI+ issues. As a result, the first interviews and contact with the justice system can come across as not tailored on specific needs of children, hampering their access to a fair justice and to LGBTI+ sensitive legal services.⁴¹

Research in Europe about the interaction between LGBTI+ children and the police is lacking, but vast research from Australia shows that the general societal attitude according to which LGBTI+ people engage in “immoral behaviour” translates into excessive policing that sometimes is “discriminatory, violent, and abusive.”⁴² From which, the need to collect the experiences and voices from LGBTI+ children across Europe and their interaction with the law enforcement authorities.

When it comes to LGBTI+ children, the situation needs to be looked at from an intersectional perspective. One of the main reasons they are especially vulnerable to face policing is because they form a significant percentage of the homeless and runaway population, including in Europe. As mentioned above, particularly concerning is the homelessness among trans teenagers, and Missing Children Europe find that data in the last decade suggests that **LGBTI+ children and youth are disproportionately represented among runaway and youth who have been asked, told, forced to leave home by parents or caregivers with no alternative care arranged.**⁴³ Moreover, the treatment they receive from the police and the way their case is dealt with play a big role in the decision to ask for support or run away repeatedly.⁴⁴ The authorities should also be aware of the services available to LGBT+ children and be able to provide a map of national and local resources specifically for LGBT+ people reaching for support. To do so, police officers should cooperate with 116 000 hotlines, helplines, and civil society. As children belonging to the LGBTI+ Community often run away because their sexual orientation or gender identity is not accepted within their own family group, police officers should ensure a positive return home. This will prevent children from further harm and will reduce the risk that the child may run away repeatedly.⁴⁵

As Prof. Angela Dwyer⁴⁶ explained on the occasion of the 2021 World Congress on Justice with Children – based on her extensive research on policing LGBTI+ children and youth and experience in capacity building of police – “LGBTI+ young people interaction with the police is a human rights issue that requires urgent attention for a number of reasons:

- LGBTI+ young people have a lot of experience with police in public spaces and they are more likely to be victimised and to experience rejection from home and different form of homelessness.
- Disrespect can lead to criminalisation in different forms: the use of inappropriate and disrespectful language from the police can lead to reactions from youth that are eventually criminalised.
- Looking queer – where looking queer encompasses a range of different aspects – matters for young people and attracts more police attention and discriminatory responses.
- Stereotypes and internalized bias from the police towards LGBTI+ children and young people can lead to manipulation of the process for the sake of punishment.
- Police can have a large discretion which can lead to discriminatory interpretations of the law.
- Police often “simply” do not respond to LGBTI+ young people reports of crimes of which they are victims
- Homophobic and transphobic screening and profiling, as well as unjustified stop and search, or other discriminatory practices are still common within the police.”⁴⁷

The risks of being victims of violations of their rights, of harassment and violence are higher for children in contact with the law in the phase of the investigation and police custody, for all children.⁴⁸

⁴¹ *Ibidem*.

⁴² Dwyer, A., et al, eds, ‘Queering Criminology’, Palgrave Macmillan, 2016, page 36.

⁴³ Missing Children Europe, Figures and trends 2020 from hotlines for missing children and cross-border family mediators. Available at <https://missingchildreneurope.eu/?wpdmdl=2558>. Missing Children Europe defines children who run away as “all children who run away from home or are pushed out of home, or from the institution where they have been placed.”

⁴⁴ Missing Children Europe (2021). RADAR Full Research Report Running Away: Drivers, Awareness, and Responses.

⁴⁵ *Ibidem*.

⁴⁶ Associate professor, Policing and Emergency management, Co-chair Division of Queer Criminology of the American Society of Criminology; School of Social Sciences, University of Tasmania.

⁴⁷ Check the recording of the 2021 World Congress on Justice with Children at <https://justicewithchildren.org/online-2021/replay/europe/>.

⁴⁸ UN Global Study of Children Deprived of Liberty, 2019

In particular, once they enter in contact with the police, LGBTI+ children may face open disregard for gender identity and/or their sexual orientation (when perceived as not conforming to mainstream standards). Examples can be disrespectful misgendering⁴⁹ by the police officers, accompanied by requests made with the intention to humiliate (like the removal of markers of gender expression), and/or use of disrespectful language and name calling with the same intention to humiliate. Considering in particular key principles of adolescent development, these instances have a huge impact on the emotional, psychological, and physical well-being of this population.⁵⁰ Being subjected to harassment and harm, because they are perceived as “deviant” by the same people that should offer protection, often leads these children to experience trauma and significant psychological harmful effects, as well as to react and to protect themselves. LGBTI+ children run the risk to be caught in a vicious circle: “Once they strike back, their “deviancy” becomes the basis for targeting by police officers and being viewed as dangerous, resulting in their referral into the juvenile justice system. Once in the system, they are at heightened risk for physical, sexual, and emotional abuse in juvenile facilities, deepening the trauma they have already experienced”.⁵¹

Children belonging to the LGBTI+ Community are also particularly vulnerable to trafficking.⁵² However, their vulnerabilities are rarely recognised when they come into contact with police officers.⁵³ Consequently, the specific needs of LGBTI+ victims are often overlooked. Professionals should recognise these vulnerabilities when dealing with children (at risk of) trafficking.

Looking at the few data available for Europe, a very concerning trend needs to be noted: according to the 2019 FRA survey, only 4% of the harassment incidents were reported by victims to the police by 15-17 year-old. Among all respondents to the FRA survey, thus including the ones between 15 and 17 years, the most common reasons not to report include thinking that the police would not or could not do anything; not trusting the police; or fear of a homophobic and/or transphobic reaction if they reported to the police: about 25% mentioned fear of a homophobic and/or transphobic reaction from police as the reason for not reporting a physical or sexual attack, and 32% among trans respondents across the EU (with significant differences among countries).⁵⁴

Taking this evidence as a starting point, the need to collect data on the experiences of LGBTI+ children in contact with the police in Europe becomes apparent. Data collection carried out through equally child-rights based and LGBTI+ sensitive processes, will help to create visibility, and develop evidence-based policies and responses, while addressing these questions – among others:

- What are the experiences of LGBTI+ children when coming into contact with the police in European countries?
- Who are the LGBTI+ children that enter in contact with the police and why, across Europe?
- Are there, across Europe, promising child-friendly and LGBTI+ sensitive practices of interaction between police and LGBTI+ children?

⁴⁹ “To Misgender” refers to “Use an incorrect pronoun (different than the one preferred by the person) intentionally or unintentionally to refer to someone”.

⁵⁰ See Blanc, J.-S. (2015). Minorités sexuelles en détention: de l’invisibilité à la stigmatisation. In: N. Queloz, T. Noll, L. von Mandach & N. Delgrande (Eds.) *Vulnérabilité et risques dans l’exécution des sanctions pénales. Actes des 9èmes Journées pénitentiaires de Fribourg* (pp. 149-171). Bern: Stämpfli Verlag

⁵¹ <https://www.templelawreview.org/lawreview/assets/uploads/2016/08/Glennon-88-Temp.-L.-Rev.-929.pdf>

⁵² Barron, I. M., & Frost, C. (2018). Men, boys, and LGBTQ: Invisible victims of human trafficking. In *Handbook of sex trafficking* (pp. 73-84). Springer, Cham.

⁵³ European Parliament resolution of 10 February 2021 on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (2020/2029(INI))

⁵⁴ European Union Agency for Fundamental Rights., *A Long Way to Go for LGBTI Equality*. (LU: Publications Office, 2020), 53, <https://data.europa.eu/doi/10.2811/582502>

Rainbow table 1

Concrete Examples of discrimination faced by LGBTI+ children when in contact with the police

Reference to main children rights threatened:		
Non-discrimination principle, art. 2 CRC ; Best interests of the child principle, art. 3 CRC ; Survival principle, art. 6 ; Right to identity, art.8 CRC ; Right to privacy, art.16 CRC ; Protection against violence, art.19 CRC ; Protection of unaccompanied or migrant children, art. 22 CRC ; Protection from sexual exploitation and abuse, art. 34 ; Protection of child victims of crime, art.39 ; Right to be treated with dignity when in conflict with the law, art 37 CRC ; Right to an individual assessment, both when they are victims (Victim's Directive art. 22) and when they are suspects or accused in criminal proceedings (Directive 2016/800 art. 7)		
Group	Examples of discrimination	What is needed
L	<ul style="list-style-type: none"> - A girl with a masculine look interviewed by the police because suspect of a crime becomes the subject of jokes and insults based on her appearance - A girl who identifies herself as lesbian, interviewed by the police as a suspect, is threatened of sexual violence to "make her change her mind" - A young couple of girl victims of hate crime are blamed by the police because they were kissing each other in public when they were assaulted 	<p>Develop multidisciplinary, robust, holistic and inclusive individual assessment protocols and tools, that take into account the diversities of gender, sexual orientation, gender expression and sexual characteristics, and include sensitive language and communication standards</p>
G	<ul style="list-style-type: none"> - A boy with a feminine look, interviewed by the police as a suspect, becomes the subject of jokes and insults by the same police officers - A boy perceived as gay and interviewed by the police is threatened of physical and sexual violence as a "lesson" - A boy who has been assaulted by other teenagers because of being gay is interviewed by the police as victim of hate crime: his report is not taken seriously, and he is blamed for having provoked his assailants with flirting 	<p>Raise awareness on the harmful effect of stereotyping and of misgendering</p> <p>Train police on gender issues and on LGBTI+ sensitive language</p> <p>Training police on the specific needs of transgender and intersex children and young people</p> <p>Monitor and reporting mechanisms for LGBTI+ children that are subject to violations of their rights when in contact with the justice system</p>
B	<ul style="list-style-type: none"> - A girl at the police station who has identifies herself as bisexual is threatened by the officer/s of sexual assault to make her "decide" and "be" heterosexual - A boy interviewed by the police as a suspect admits having a romantic relationship with the boy he has been arrested with, and he is threatened that his parents will be informed - despite him being in the closet for fear of rejection from the family – if he doesn't fully confess 	<p>Multi-agency cooperation and possibility for the police officers to receive specialised support</p>
T	<ul style="list-style-type: none"> - A homeless, trans girl is profiled as a sex worker by the police just because she lives on the street following rejection from her family - The police officer refuses to use a trans boy chosen name and preferred pronouns (he/him) because they do not match his name on the ID document - A trans girl is mocked, threatened to dress as a "normal boy" and requested to remove her wig - A trans girl victim of sexual assault is ashamed and blamed for the assault because of her appearance and her "choices". She is re-victimised, and her trauma is ignored 	<p>Ensure availability of a trained and resourced psycho-social support team working closely with the police, for children who enter in contact with police</p> <p>Engage families, communities and the media into changing the narratives about LGBTI+ children in contact with the police</p>

I	- A young person with a non-binary look (not in line with the gender stereotypes that classify males and females) is the subject of offensive language and their preferred pronouns are not asked nor taken into consideration	Identify “champions” among police to highlight positive examples of LGBTI+ sensitive behaviours within the police force
+	- A queer, unaccompanied minor is waiting for his asylum request to be approved, after they fled his country because of their harsh anti-LGBTI legislation and fear for their life. In the asylum country they are continuously stopped and profiled by the police, just because of being black and queer	Train Barnahus services, in particular forensic interviewers, on LGBTI+ sensitive communication and language

2. LGBTI+ children’s rights and deprivation of liberty



“Existing evidence indicates that after entering detention, LGBTI [migrant] children are not properly informed about their right to seek asylum. They also face significant pressure to accept ‘voluntary return’ or are denied asylum even though they face persecution in their countries of origin.⁵⁵ 32 Additionally, LGBTI children are likely to be particularly vulnerable to discrimination, violence, and harassment during migration and in detention settings, particularly in countries in which homosexuality is outlawed.⁵⁶ Transgender children may be assigned to detention facilities on the basis of the sex they were assigned at birth, meaning, for example, that transgender girls may be held in facilities for boys. Alternatively, transgender children may be isolated, with potentially damaging consequences for their mental well-being.”

[UN Global Study of Children Deprived of Liberty, 2019, p. 440]

Children are deprived of liberty in various contexts including pre-trial and post-trial detention, police custody, detention for migration-related reasons and placement in institutions. Under international law, **children should not be deprived of their liberty. It should only be a measure of last resort and for the shortest appropriate period of time.**⁵⁷ If a child is deprived of liberty they should be protected from torture and other cruel or inhuman treatments and all their fundamental rights be respected.⁵⁸

Studies conducted in the United States illustrate that LGBTI+ youth are generally overrepresented in the criminal justice system.⁵⁹ For LGBTI+ youth of colour, the numbers are even higher.⁶⁰ Furthermore, these numbers may be an under estimation, considering that youth may be uncomfortable disclosing their gender identity and/or sexual orientation in fear of being discriminated or mistreated.⁶¹ This overrepresentation may not be limited to North America nor the context of criminal detention, although in Europe research is lacking. Acknowledging the lack of data, there is anecdotal evidence on an over-representation of LGBTI+ adults and children in

⁵⁵ Susan Hazeldean, ‘Confounding Identities: The Paradox of LGBT Children under Asylum Law’, University of California, Davis, Law Review, Vol. 45(2), pp. 2011-2012. Edward J. Alessi, Sarilee Kahn & Sangeeta Chatterji, ‘The darkest times of my life: Recollections of child abuse among forced migrants persecuted because of their sexual orientation and gender identity’, Child Abuse & Neglect, Vol. 51, 2016, pp. 93–105. Amnesty International, No Safe Place: Salvadorans, Guatemalans and Hondurans seeking asylum in Mexico based on their sexual orientation and/or gender identity, 2017. For more on LGBTI children see Chapter 8 on Gender Dimension.

⁵⁶ Cf. Alice Driver, The Road to Asylum, Longreads, 2018, Available at <https://longreads.com/2018/06/29/the-road-to-asylum/> (accessed 3 April 2019)

⁵⁷ UN Convention on the Rights of the Child, 1989, art.37

⁵⁸ *Ibid.*

⁵⁹ Criminal-Justice and School Sanctions Against Non-heterosexual Youth: A National Longitudinal Study: Kathryn E. W. Himmelstein, and Hannah Brückner; UNJUST: HOW THE BROKEN JUVENILE AND CRIMINAL JUSTICE SYSTEMS FAIL LGBTQ YOUTH; Bianca D.M. Wilson et al. (2017) in UN Global Study on children deprived of liberty “In North America, recent data show that LGBTI young people are overrepresented in child justice facilities. While they account for 7-9% of all youth nationwide, they average 20% of all youth within child justice facilities

⁶⁰ Criminal-Justice and School Sanctions Against Nonheterosexual Youth: A National Longitudinal Study: Kathryn E. W. Himmelstein, and Hannah Brückner; UNJUST: HOW THE BROKEN JUVENILE AND CRIMINAL JUSTICE SYSTEMS FAIL LGBTQ YOUTH

⁶¹ LGBTQ Youths in the Juvenile Justice System, Literature Review, Available at <https://ojjdp.ojp.gov/mpg/literature-review/lgbtq-youth-in-juvenile-justice-system.pdf>

immigration detention since persecution on the basis of sexual orientation and gender identity causes people to flee their countries. The UN Global Study on children deprived of liberty, as from the opening quote of this section, points that LGBTI+ children with a migration status are often not informed about their right to seek asylum, are particularly at risk of harassment and transgender children may be assigned to detention facilities on the basis of the gender assigned at birth and not the one they self-identify with.

Furthermore, a study shows that, during trials, judges are more likely to rule in favour of detaining LGBTI+ youth.⁶² This may be related to the belief that the lack of family support - because of the gender identity and/or sexual orientation of the child - is the cause of the 'deviant' behaviour, in addition to the prejudices and stigma that place LGBTI+ youth as more aggressive. Criminalisation of survival strategies such as running away, selling drugs, prostitution, theft, fleeing to another country is another factor that leads to the detention of LGBTI+ children.⁶³ In addition, judges may believe that the detention centre would serve as a refuge from other hostile environments that the youth may be subjected to. These stereotypes, internalised biases and lack of alternative care and support put this population at great risk, and ultimately lead to their detention and harsh sentences.

This exposure to deprivation of liberty is all the more concerning when LGBTI+ children deprived of liberty are in a situation of vulnerability regarding potential violation of their rights and ill-treatment. Detention in itself puts the detainee in a vulnerable situation. However, certain people are in an even more vulnerable situation when they are detained because they cumulate risk factors.⁶⁴ Being a child and being LGBTI+ are two factors that increase the vulnerable situation of the person in detention.

When deprived of liberty, LGBTI+ children are at risk of suffering ill-treatment that could amount to inhumane or degrading treatment or even torture. Three types of ill-treatment are particularly likely to happen: **misplacement, isolation and violence** (physical and psychological).

Misplacement

During detention, one of the crucial issues that the LGBTI+ children can face is (mis) placement.⁶⁵ Most often they are allocated to rooms or detention centres based on sex assigned in their birth certificate or official documents: the individuals' self-identification and expression of gender identity and sexual orientation are often ignored. Other related problems include providing gendered clothing they are not comfortable wearing, due to their gender identity. Thus, the lack of access to proper clothing, as well as to items that are crucial for gender expression, is a key issue particularly for transgender children in detention.⁶⁶

Isolation

LGBTI+ children are also at risk of being isolated from the rest of the population on the ground of protecting the child's safety and ensuring that they are not bullied or assaulted by their peers. Isolation however is highly detrimental for their psycho-social wellbeing and increases the risk for them not to access education and other activities offered in the detention context. The European Court of Human Rights recognised that the holding of a homosexual prisoner in isolation and in inadequate conditions for months to protect him from fellow prisoners, constituted inhuman and degrading treatment and discriminatory treatment.⁶⁷

Violence

States obligations to prevent torture require them to protect LGBTI+ detainees from violence by the authorities but also co-detainees, and to take all necessary measures in this regard.⁶⁸ In this context, while it is essential to strengthen the guarantees of respect for rights in detention, we understand that there is a crucial need for

⁶² Criminal-Justice and School Sanctions Against Non-heterosexual Youth: A National Longitudinal Study: Kathryn E. W. Himmelstein, and Hannah Brückner; UNJUST: HOW THE BROKEN JUVENILE AND CRIMINAL JUSTICE SYSTEMS FAIL LGBTQ YOUTH

⁶³ UN Global Study on Children deprived of liberty, Chap. 8 Gender dimension, 5. Sexual orientation and gender Identity in the context of deprivation of liberty.

⁶⁴ Association for the Prevention of Torture, Groups in situations of vulnerability, consulted in August 2022, available online: <https://www.ap.torture.ch/en/knowledge-hub/detention-focus-database/groups-situations-vulnerability>. "Any detained person, whatever the reasons that led to their deprivation of liberty, is in a situation of vulnerability. The following are factors that place people in situations of vulnerability: a power imbalance between detainees and those in charge of them, an almost complete dependency upon the institution which has deprived them of their freedom or limits their movements, weakened social ties and stigmatization related to detention." "However, if the concept of vulnerability affects the entire population deprived of their liberty, certain detained people or groups of detainees are especially vulnerable and require additional attention and protection. In some cases, these situations may justify access to particular services"

⁶⁵ UNJUST: LGBTQ YOUTH INCARCERATED IN THE JUVENILE JUSTICE SYSTEM, 2017 available at <https://www.lgbtmap.org/file/lgbtq-incarcerated-youth.pdf>

⁶⁶ (Carr, N., McAlister, S., & Serisier, T. (2016). Out on the Inside. The Rights, Experiences and Needs of LGBT People in Prison. Dublin: Irish Penal Reform Trust; Lamble, S. (2012). Rethinking Gendered Prison Policies: Impacts on Transgender Prisoners. The Howard League for Penal Reform: Early Career Academics Network Bulletin, 16, 7-12).

⁶⁷ ECtHR, X v. Turkey, 2012, §§ 42-57

LGBTI+ sensitive proceedings and authentically child friendly proceedings, i.e. proceedings in which children are only detained as a measure of last resort and for the shortest appropriate period of time. In addition, immigration detention is never in the best interests of the child and always constitutes a violation of their fundamental rights.⁶⁹ To this end, non-custodial protective measures and alternatives to detention that respect children's rights are essential.

Taking this knowledge as a starting point, and once again acknowledging the lack of data from Europe, the need to collect data on the experiences of LGBTI+ children in detention becomes apparent. Data collection carried out through equally child-rights based and LGBTI+ sensitive processes, will help to create visibility, and develop evidence-based policies and responses also in this area, while addressing these questions – among others:

- What are the experiences of LGBTI+ children in detention in European countries?
- Do they have access to appropriate services and assistance, and are they protected in the fulfillment of their rights while in detention?
- Who are the LGBTI+ children that end up in detention across Europe, and why?
- Are there, across Europe, promising child-friendly and LGBTI+ sensitive practices of measures alternative to custody and to detention, to address the specific needs and vulnerabilities of LGBTI+ children involved in criminal and administrative proceedings?

Rainbow table 2

Concrete examples of discrimination faced by LGBTI+ children when deprived of their liberty⁷⁰

Reference to main children rights threatened:		
Non-discrimination principle, art. 2 CRC ; Best interests of the child principle, art. 3 CRC ; Survival principle, art. 6 ; Right to identity, art.8 CRC ; Child participation principle, art. 12 CRC ; Right to privacy, art.16 CRC ; Protection against violence, art.19 CRC ; Protection of unaccompanied or migrant children, art. 22 CRC ; Right to health, art. 24 CRC ; Protection from sexual exploitation and abuse, art. 34 CRC ; Right to be protected from inhumane and degrading treatment, and safeguards in detention, art. 37 CRC ; Right to a fair trial, art. 40 CRC .		
Group	Examples of discrimination	What is needed
L	<ul style="list-style-type: none"> - A lesbian girl in detention for a crime she has been convicted for, is sexually assaulted by a male guard who wants to convince her that "men are better" - A lesbian, migrant girl in administrative detention is subjected to continuous homophobic remarks and threats from the people she is in detention with 	<p><i>*All the following recommendations apply to all detention facilities, including migrant centres</i></p> <p>Ensure that detention is only used as a last resort, and administrative detention never acceptable</p> <p>Continuous awareness-raising and training for detention centres staff on LGBTI+ children's rights and needs, with fixed presence or possibility of referral to specialised professionals</p>
G	<ul style="list-style-type: none"> - A gay boy in pre-trial detention is not given access to the showers as the other boys may feel 'uncomfortable' - A gay migrant boy in administrative detention is mistreated by the staff of the facility because of his queer appearance 	<p>Continuous awareness-raising activities for children and young people in detention on LGBTI+ issues, in collaboration with specialised civil society organisations</p>

⁶⁸ ECtHR Stasi v. France, 2011, §§ 89 and 101

⁶⁹ UNCR/C/GC/23

⁷⁰ As explained at p.14, when reading these examples of life experiences: a) Be mindful that while some examples/experiences are very specific to one of the target groups in the LGBTI+ community (L, G, B, T, I or +), many can be observed transversally to all the groups and are not exclusive of one specific category; b) Keep in mind that the examples provided are not exhaustive of all the several, specific barriers and discrimination that each and every LGBTI+ child can experience in their contact with the justice systems

<p>B</p>	<ul style="list-style-type: none"> - A bisexual boy in detention is beaten up by a group of other boys because they claim he had looked at them in an inappropriate way - A bisexual girl in detention is harassed by a female guard who claims she can convince her to “make a decision” about her sexual orientation 	<p>Awareness-raising and training on LGBTI+ children’s rights and needs for judges and public prosecutors, to promote the use of diversion and alternative measures to detention (especially when in the detention centre/s the integrity of the LGBTI+ child would be at risk)</p>
<p>T</p>	<ul style="list-style-type: none"> - A trans girl is assigned to a detention centre for boys because her gender in the ID document has not been changed yet. In detention, she is then put in solitary confinement in order to “protect” her - A trans, migrant boy in administrative detention does not have access to specialised psychological and medical treatment - A trans girl assigned to a detention centre for boys does not have access to appropriate clothing and any other item appropriate to her gender expression - A trans girl is sexually assaulted by a group of boys in detention and she does not receive any appropriate response to that violence from the staff - A trans, migrant girl in administrative detention is mocked and called names by the other girls in the centre and by the staff 	<p>Create and adopt inclusion policies, which include mandating respect for gender self-identification, to the attention of staff and as part of LGBTI+ staff employment processes</p> <p>Ensure the existence and the implementation of anti-harassment policies in place</p> <p>Put a ban on segregating practices in places where children are deprived of liberty.</p> <p>Set up and implement safe monitoring and reporting mechanisms for cases of violence against LGBTI+ children and LGBTI+ staff members</p> <p>Ensure the availability of psycho-social support both for staff and for LGBTI+ children</p> <p>Ensure access to (mental) healthcare within detention that is adapted to the needs also of LGBTI+ children</p> <p>Ensure comprehensive, multidisciplinary and ongoing assessments of the best interests of the child and/or vulnerability screenings and take individualized protection measures</p>
<p>I</p>	<ul style="list-style-type: none"> - An intersex teenager in pre-trial detention does not have access to the specialised medical services they need - An intersex child in administrative detention is isolated from the others because the staff do not know how to protect them 	<p>Engage families, communities and the media into changing the narratives about LGBTI+ children deprived of liberty</p>
<p>+</p>	<ul style="list-style-type: none"> - A non-binary teenager is put in police custody with a group of boys based on their sex registered on the ID. They are mocked and threatened both by the other teenagers and by the police officers 	<p>Identify “champions” among the professionals working with children in detention, to highlight positive examples of LGBTI+ sensitive behaviours within detention facilities</p>

3. LGBTI+ children in contact with the law and their support systems



"I'm constantly being attacked, I'm afraid of walking around the school, I don't even go to the school shop alone because I'm afraid of meeting those who bully me. In school a few students from another class constantly accost me with remarks, they even made a rhyme about me."

[Boy, 15, Poland]⁷¹

LGBTI+ children are confronted with several layers of discrimination in the many instances of their lives – community, family, education, health care – which contribute to increase their risk to enter in contact with the justice system, as well as their vulnerability once inside the justice system. As a matter of fact, for children, the possibility to count on solid and inclusive social support systems is among the most effective ways to: prevent criminalization and profiling of LGBTI+ children; reduce the risk they enter in contact with the justice system; and provide them with a strong support net both when that happens and when they are released.

Generally, when accessing support systems, LGBTI+ children's primary concern is their own safety. Research shows that LGBTI+ children not only do not report to the police, but they very rarely report to any other support person, for the fear of lack of understanding and/or the use of inappropriate language by professionals.⁷² Similarly, they fear the reaction of their family when stating their needs.

With regard to medical care, transgender and intersex children need the consent of their parents or caretakers to be provided with the adequate treatment or procedure in order to express their gender identity. The lack of proper psychological support and trained professionals to inform about the options available cause further distress for LGBTI+, often making the gender transitioning procedures very long and expensive.

Regarding the experience of intersex children specifically, the FRA research in 2019 has shown that over 60% of this population was not provided informed consent (their own or their parents') before their first surgical treatment to modify their sex characteristics.⁷³ This treatment, besides being performed without the full informed consent of the person, against international legal standards, also causes often several harmful psychological and physical effect in the medium-long term. Intersex children and people generally encounter serious barriers in accessing appropriate healthcare, due to the stigma that comes with the "pathologisation" of their situation and to the dire lack of knowledge and information about the intersex population among professionals, including doctors.

In terms of access to health services and general well-being, the COVID19 pandemic severely affected LGBTI+ communities, particularly the trans and the intersex communities, who experienced a considerable worsening in mental health and wellbeing conditions and education, as well as access to health, and higher exposure to risk of human trafficking.⁷⁴

In the area of education, as shown above, in Europe, LGBTI+ children's experiences of harassment and violence occur mostly in school.⁷⁵ Despite the progress in the implementation of LGBTI+ inclusive education policies, these measures continue to be challenged by internal politics.⁷⁶ The great majority of countries in Europe do not provide sufficient training for teachers and staff, and few have set up support systems for young people with specific information about sexual orientation and gender identity, leaving schools not equipped to face students' questions and personal struggles, and to protect LGBTI+ children.⁷⁷

⁷¹ UNESCO, *Out in the open: Education sector responses to violence based on sexual orientation and gender identity/expression*, 2016, p.46

⁷² European Union Agency for Fundamental Rights., *A Long Way to Go for LGBTI Equality*. (LU: Publications Office, 2020), 53, <https://data.europa.eu/doi/10.2811/582502>; McHaelen and Elze, "Moving the Margins: Training Curriculum for Child Welfare Services with Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ) Youth in Out-of-Home Care"

⁷³ European Union Agency for Fundamental Rights., *A Long Way to Go for LGBTI Equality*. (LU: Publications Office, 2020), 53, <https://data.europa.eu/doi/10.2811/582502>

⁷⁴ See resources at <https://tgeu.org/covid-19-resource-centre/> and <https://infographics.oieurope.org/oii-europe-covid-19-report>

⁷⁵ European Union Agency for Fundamental Rights., *A Long Way to Go for LGBTI Equality*. (LU: Publications Office, 2020), 53, <https://data.europa.eu/doi/10.2811/582502>

⁷⁶ IGLYO, "LGBTQI Inclusive Education Report 2022" (Brussels, 2022)

⁷⁷ *Ibidem*, p.25

The relationships within their family are one of the main triggers to many of the issues that affect LGBTI+ children and to their lack of support within the community and protection systems. When a child's sexual orientation or gender identity is not accepted within their own family group, and they do not have an inclusive support system outside their immediate family, they become more vulnerable and more exposed to risky situations. Research shows that LGBTI+ children from families that reject their LGBTI+ identities are at greater risk of developing physical and mental health problems – such as suicide attempts, depression, substance abuse, exposure to Sexually Transmitted Infections (STI).⁷⁸ The other very concerning data that worsen the situation of high vulnerability of LGBTI+ children in Europe are the existence of “conversion therapies” still not officially banned in the great majority of countries. Only four countries in Europe have banned these practices – defined as “treatments aimed at changing a person's sexual orientation or gender identity”- which can include medication, psychotherapy and very harmful and traumatic practices like electroshock therapies and religious exorcism, and which can bring highly detrimental effects on the psychological and physical integrity of the person.⁷⁹

Possibly as a result of still highly rejecting families and communities, according to the FRA research from 2019, 37% of the respondents between 15-17 are almost never open about LGBTI.

On the other hand, family acceptance has a positive impact on LGBTI+ children youth health and mental health. Specialised research demonstrates that parents and caregivers can modify their rejecting behaviour and become more supportive, especially when they understand how and why their actions are rejecting behaviours. Policies that focus on interventions to maintain children in their homes are successful not only to prevent homelessness, but also to create an affirming environment where children can express their identities and sexualities.⁸⁰

A family-related approach should include conversations and training with multiple professionals, from education and health care to religious leaders, and assist parents, kin and legal guardians to affirm and recognise the needs of the LGBTI+ child.⁸¹

The role of support systems is key to improve the access to justice for LGBTI+ children and make it safe and fair, as important changes need to happen at systemic level. An effective response to discrimination of these children in the justice system needs to look at and consider all the factors that lead to that, which are to be found in the negative attitudes and perceptions that LGBTI+ children are subjected to in their families, schools, communities and all other systems they enter in contact with.⁸²

Accepting families, safe schools, communities that are understanding and inclusive of diversity, will have the effect to prevent LGBTI+ children to end up homeless, exposed to violence and mistreatment, and so exposed to the criminal and administrative justice systems.

That societal change will also impact the behaviours and attitudes of individual professionals, who will in turn feel supported, and will be trained and equipped to protect these children, building a culture of trust that is so fundamental to tackle violence and hate crime.

All of these factors and risks of being rejected by families and communities can be motivating factors for LGBTI+ children to flee their country in search for a safer place. As we saw in the previous section though, this may result in multiple layers of vulnerability, as they may end up in detention centres in the country of arrival, as migrant or unaccompanied children, and they may experience further barriers to the fulfilment of their rights and further forms of discrimination and violations of their rights.

Taking as a starting point the larger availability of data in Europe about the experiences of LGBTI+ children in school settings, families, health system, and broader communities, it is still important to acknowledge the need for additional data disaggregated by age, that would cover more thoroughly the different age groups of children (most of the data available concerns young people and older than 15).

⁷⁸ McHaelen and Elze, “Moving the Margins: Training Curriculum for Child Welfare Services with Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ) Youth in Out-of-Home Care”

⁷⁹ European Parliamentary Research Service, Bans on conversion ‘therapies’ The situation in selected EU Member States, 2022

⁸⁰ *Ibidem*.

⁸¹ Christina Wilson Remlin et al., “Safe Havens: Closing the Gap Between Recommended Practice and Reality for Transgender and Gender-Expansive Youth in Out-of-Home Care” (United States: Children's Rights, Lambda Legal, Center for the Study of Social Policy, April 2017), 28

⁸² The importance of a systemic approach is well explained in the UN Global Study on Children Deprived of Liberty, 2019, pp. 299-300

Data collection carried out through equally child-rights based and LGBTI+ sensitive processes, will help to create visibility, and develop evidence-based policies and responses also in this area, while addressing these questions – among others:

- What are the experiences of LGBTI+ children in schools, sport centres, cultural centres, and all settings where pre-adolescents and adolescents mostly spend their time? Do these experiences have an impact, and if yes how, on the future experiences of victimisation and contact with the law of these children?
- Do LGBTI+ children have access to appropriate health care services and assistance, and are they protected in the fulfillment of their rights within their communities, regardless of their status as national, migrant, unaccompanied or asylum seekers?
- Are there, across Europe, promising child-friendly and LGBTI+ sensitive practices of work with families, schools, communities, to specifically address LGBTI+ children for the prevention of crime and protection from violence?

Rainbow table 3

Concrete examples of discrimination faced by LGBTI+ children in their support systems⁸³

Reference to main children rights threatened:		
Non-discrimination principle, art. 2 CRC ; Best interests of the child principle, art. 3 CRC ; Survival principle, art. 6 CRC ; Right to identity, art.8 CRC ; Child participation principle, art. 12 CRC ; Right to privacy, art.16 CRC ; Protection against violence, art.19 CRC ; Protection of unaccompanied or migrant children, art. 22 CRC ; Right to health, art. 24 CRC ; Protection from sexual exploitation and abuse, and from trafficking, art. 34 and art. 35 CRC ; Protection of child victims of crime, art.39 CRC .		
Group	Examples of discrimination	What is needed
L	<ul style="list-style-type: none"> - A girl is cut off her female friends' group at school after saying she is lesbian and doesn't have anyone else to talk to - A girl is discredited by her gynaecologist when she shares that she has a relationship with another girl. That leaves her with many unanswered questions about safe sexual relationships, beyond a great sense of vulnerability and shame 	<p>Ensure adequate resources for accessible help and counselling for LGBTI+ children, including online and per correspondence.</p> <p>Create, implement and monitor transversal programs with schools and common spaces (such as sport centres) to face homophobia and transphobia in children's and youth's groups.</p>
G	<ul style="list-style-type: none"> - A boy is bullied at school by another group of boys because he is gay - A boy commits suicide after having been forced to undergo a 'conversion therapy' cycle following his coming out with the parents 	<p>Run programs of education and awareness-raising for families, schools and communities, explaining how LGBTI+ children express and understand their sexuality.</p>
B	<ul style="list-style-type: none"> - A bisexual boy is obliged not to disclose his sexual orientation with his family and his network of friends for fear of being rejected. This has a severe impact on his self-esteem and hampers any potential relationship - A bisexual girl is bullied and discredited by her family and friends as her sexuality is considered "just a phase she will grow out of" 	<p>Create a public policy that offers the family and the teenager a support program to help with the gender transition, including medical professionals and social workers.</p>

⁸³ As explained at p.14, when reading these examples of life experiences: a) Be mindful that while some examples/experiences are very specific to one of the target groups in the LGBTI+ community (L, G, B, T, I or +), many can be observed transversally to all the groups and are not exclusive of one specific category; b) Keep in mind that the examples provided are not exhaustive of all the several, specific barriers and discrimination that each and every LGBTI+ child can experience in their contact with the justice systems

<p>T</p>	<ul style="list-style-type: none"> - A teenager who was assigned female at birth but identifies as male cannot get his family's approval for hormonal medical treatment and has been struggling with severe mental health problems while threatened by his family to be kicked out of their house - A teenager who was assigned male at birth but identifies as female is heavily bullied at school because of her feminine appearance. She is called names and her teachers refuse to call her with the name she chose and to use her preferred pronouns 	<p>Develop and disseminate specific guidelines to provide information about all the options available for trans children and for intersex children, and their close family members.</p> <p>Include in all the above-mentioned policies and initiatives, specific attention to migrant and asylum seeking LGBTI+ children.</p>
<p>I⁸⁴</p>	<ul style="list-style-type: none"> - An intersex child is born, and the doctors autonomously decide that it is in the best interest of this child to undergo a surgery that assigns them "female" sex. They will suffer severe physical and psychological consequences, with irreversible effects - An intersex child is laughed at, mocked and physically harassed by their classmates, and the teachers and parents do not intervene 	<p>Ensure that sensitisation, awareness-raising campaigning and capacity building for families, schools and communities are aware of further layers of discrimination and vulnerability, such as being on the move</p> <p>Include in teaching curricula the histories of discrimination against LGBTI+ people, and teach about key LGBTI+ people that are leaders</p>
<p>+</p>	<ul style="list-style-type: none"> - A non-binary teenager who wants to play soccer is not accepted into the school because their physical appearance does not correspond to gender conforming rules - The son of a lesbian couple is mocked and targeted by a group of bullies at school, to the point that he builds a great hostility against his mothers 	

⁸⁴ A very important collection of testimonies from intersex people has been published by OII and translated in Spanish and French. The English version is available at: https://www.oii-europe.org/wp-content/uploads/2019/11/testimonial_broch_21-21cm_for_web.pdf

Conclusions and recommendations

This reading should have brought to light the importance of continuing the conversation about discrimination of LGBTI+ children in the justice system and the urgency to engage professionals and policy makers in targeted research, capacity building, awareness-raising and initiatives to push for a systemic change.

This Challenge Paper marks only the beginning of a discussion around topics that for far too long have been considered taboo and that require now immediate and specific attention.

It is our hope that the concrete examples provided throughout this paper generate the common willingness to improve our practices, while conveying the sense of fear, mistrust, vulnerability, lack of protection and lack of understanding that too many children still experience in all spheres of their lives, including – and above all – when in contact with the justice system. As Prof. Jennifer Davidson⁸⁵ concluded during the Europe Regional session of the 2021 World Congress on Justice with Children: “If still we haven’t concluded this session without increasing your sense, internally, of an outrage about these injustices, then... just watch the recording again.”⁸⁶

We encourage professionals to be champions in the realisation of fair and inclusive child justice systems, for the fulfilment of the rights that all children are entitled to. We recommend any practitioner, policy maker and individual in contact with LGBTI+ children to listen to children, be open, collect and learn from their stories, as that remains the best way to see them, understand their struggle and work together to be part of the solution/s.

To support them in this endeavour, we propose below the following **Call for action** through actionable **recommendations towards**:

- 1 **LGBTI+ sensitive justice systems for children**
- 2 **Reinforced capacities of professionals working with children in justice systems on LGBTI+ needs**
- 3 **LGBTI+ inclusive legal and policy frameworks**
- 4 **LGBTI+ inclusive societies**

Call for action

The following recommendations include the actions/solutions proposed throughout the paper, and address:

- Professionals and practitioners working in the justice system at all levels: managers, trainers, public servants, private professionals
- Law and policy makers and European, national and local level
- Families, schools, communities and the media

1. *Towards LGBTI+ sensitive justice systems for children*

Resources

- European and national funds should be allocated to carry out **research**, across Europe, about the experiences of LGBTI+ children involved in justice systems, throughout the proceedings in criminal, administrative and civil justice, and on the links between being LGBTI+ and going missing. Research on their experiences of discrimination and abuse needs to be used to feed appropriate policies, awareness campaigns and training programmes for professionals working with children, starting with the police as key gatekeepers.
- European funding should be allocated to support civil society organisations and local authorities to implement long-term projects and programmes in line with the recommendations offered in this Challenge Paper.

⁸⁵ Professor and Executive Director of the Institute for Inspiring Children’s Futures, University of Strathclyde

⁸⁶ The recording of the very informative plenary session of the 2021 World Congress on Justice with Children is available at <https://justicewithchildren.org/online-2021/replay/europe/>.

Child Participation

- All services and institutions working with children in criminal and administrative justice should ensure the **respect of children's rights and provide them with a safe space where they can express themselves freely and openly**, respecting their agency and their privacy at all times.

Specialisation of services

- State authorities in all European countries should ensure the presence, in all services and departments working with children, including in the administration of justice, of **specialised professionals aware and sensitised on LGBTI+ issues**, with the aim to mainstream the specific LGBTI+ component within the overall gender dimension.
- Specialised, multi-agency working groups should develop **child-friendly guidelines on how to assess the specific needs of LGBTI+ children** when they enter in contact with the justice system – either as victims or suspects– and to provide tailor-made responses
- State authorities should design and fund **legal advocacy services** to provide specific support for LGBTI+ young people in conflict with the law
- State authorities should put in place **multidisciplinary, robust, holistic and inclusive individual assessment protocols and tools**, that take into account the diversities of gender, sexual orientation, gender expression and sexual characteristics, and include sensitive language and communication standards

All services and institutions working with children in criminal and administrative justice should:

- Ensure that **supplies** (such as clothing and hygiene products) – particularly in detention facilities and migrants centres – are **gender neutral and available in gender neutral spaces** so everyone can access them.
- Ensure the availability of a trained and **resourced psycho-social support team** working closely with the staff, especially at the police and within detention facilities.
- Develop and provide **official forms** that include a space where children can indicate their **gender identity and preferred name and pronouns**, while feeling safe to express their preference.
- Establish policies about **body searches** where LGBTI+ children can provide their preference regarding the gender of the official carrying out the search.
- Ensure that LGBTI+ children are provided **access to the specialised health and care services** they need.

Protection and reparation

- State authorities in all European countries should ensure the accessibility by **LGBTI+ children who are victims of human rights violations** based on sexual orientation or gender identity to full reparation through restitution, compensation, rehabilitation, satisfaction, guarantees of non-repetition, and/or any other appropriate means.
- **Victims support services** should be provided with **training on gender and LGBTI+ issues**, LGBTI+ sensitive language, and the specific needs of LGBTI+ children, with particular attention to transgender and intersex children.
- The management of detention facilities and migrant centres should ensure that the **ban on segregating practices** in places where children are deprived of liberty is respected and should apply existing measures alternative to detention for children particularly at risk of violence and abuse.

Monitoring and Reporting

All services and institutions working with children in criminal and administrative justice should:

- Ensure that **policies against homophobic and/or transphobic behaviour by staff** are clear and in place and they include disciplinary measures, monitoring and reporting systems to ensure that these behaviours are not tolerated.
- Create and adopt inclusion policies, which include mandating respect for gender self-identification, to the attention of staff and as part of LGBTI+ staff employment processes.
- Ensure the existence and the implementation of anti-harassment policies in place, including safe **monitoring and reporting mechanisms**, to fight harassment among staff members and against the child beneficiaries of the service.

Sensitisation and Awareness-raising

All services and institutions working with children in criminal and administrative justice should:

- Establish collaborations with civil society organisations to develop and make **child friendly resources and information about LGBTI+ rights**.
- Identify **LGBTI+ rights “champions”**, especially within the police and in detention facilities, to highlight positive examples of LGBTI+ sensitive behaviours within these institutions and build a trust relationship with LGBTI+ communities.

All the previous recommendations should be transposed to **civil justice**, with the appropriate adaptations to the specific context.

2. Towards reinforced capacities of professionals working with children in justice systems on LGBTI+ needs

Sensitisation and Awareness-raising

- The management of all institutions working with children in the justice field should ensure **continuous sensitisation and awareness-raising activities** on SOGIESC themes, including on the harmful effects of stereotyping and of misgendering, LGBTI+ sensitive language, homophobic and transphobic hate crime. These activities should be conducted throughout all services and institutions of the justice system, including and mostly in police stations, detention facilities and migrant detention centres.
- Police management and leaders should invest financial and human resources in **awareness and sensitisation campaigning on hate crime within LGBTI+ communities**, especially targeted and jointly with LGBTI+ communities. A mutual trust relationship between the police and LGBTI+ children – and people more broadly – is necessary to ensure that violence and abuse are prevented, reported and responded to.

Capacity Building and Specialisation of professionals

- Police academies, schools of magistrates, bar associations and professional training schools for social workers, probation officers and all other professionals working with children in the criminal and administrative justice system should offer **continuous training and capacity building activities** on gender and LGBTI+ issues, LGBTI+ sensitive language, and the specific needs of LGBTI+ children, with particular attention to transgender and intersex children.
- The management of detention facilities – including migrant centres –, of police and all services working with children in contact with the law should ensure that **the staff access specialised training** and that they assign the child to a unit according to the gender that the child identifies with.
- Judicial training schools should include in the training for judges and public prosecutors a focus on LGBTI+ children's rights and needs, and emphasise the **need to promote the use of diversion and alternative measures to detention** especially when in the detention centre/s the integrity of the LGBTI+ child would be at risk.

3. Towards LGBTI+ inclusive legal and policy frameworks

Ban of harmful practices

- European law and policy makers should issue legislation and recommendations to **ban officially conversion therapies** throughout European countries, as called already several times by the European Parliament.⁸⁷
- European law and policy makers should issue legislation and recommendations to **ban “normalising” medical procedures for intersex children** across European countries, and European countries should ban this kind of procedures, in line with the recommendations of the Committee on the Rights of the Child included in several country concluding observations.⁸⁸
- State authorities in all European countries should have in place measures to legally **prosecute any medical or surgical treatment** that is undertaken **without a full, informed consent** of the child and of their parents/legal guardians.

Legal protection

- European law and policy makers should issue legislation and recommendations to allow **legal gender recognition** and ensure the right of legal recognition of their gender identity to all transgender, non-binary, and intersex children.
- State authorities in all European countries should introduce legislation to **protect people against homophobia, transphobia and hate crime** against SOGIESC.
- State authorities in all European countries should provide for clear legal measures and guidelines to ensure that children's preferred names, preferred pronouns, and gender identity are included in **registries and official documentation**.

Inclusion policies

- All private and public services working with children, should create and adopt inclusion policies, which include mandating respect for gender self-identification, to the attention of staff and as part of LGBTI+ staff employment processes. These policies should include clear measures to prevent homophobic and transphobic harassment and to protect LGBTI+ children from any form of abuse.

4. Towards LGBTI+ inclusive societies

Child Participation

- State authorities in all European countries should ensure that **efficient child participation mechanisms** are in place, in collaboration with civil society organisations, at national and local level to ensure that LGBTI+ children are consulted regarding legislation and policy changes affecting them.
- Social services should provide **safe spaces for LGBTI+ children to express themselves freely and openly**, respecting their agency.
- Particular attention should be paid to the situation of **migrant and asylum seeking LGBTI+ children**.

Sensitisation and Awareness-raising

- State authorities in all European countries should provide and support **quality public programmes** that offer transgender and intersex children and their families the **medical and psychological support** they may need.
- **LGBTI+ children, including migrant children and asylum seekers, as well as children from other minority groups**, should as much as possible **design and lead awareness-raising and sensitisation activities**, as they can best identify the key messages, the dissemination tools and the target they perceive as priorities to improve their life.
- Local communities should develop, in collaboration with LGBTI+ children, specific **guidelines to provide information about all the options available for transgender and intersex children and their caretakers**. These guidelines should be disseminated publicly and for free, accessible to all children and families who may need them.
- Schools should include in teaching curricula the histories of discrimination against LGBTI+ people, and teach about key LGBTI+ people that are leaders.
- **Schools and communities** should invest to create, implement and monitor **transversal programs to face homophobia and transphobia** in children's and youth's groups.
- Schools and communities should invest to create and run **programs of education, sensitisation and awareness-raising for families, schools, and communities** explaining how LGBTI+ children express and understand their sexuality, and to prevent LGBTI+ homelessness and drop-out of school. These programs should involve media and private parties.

87 See at [https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2022\)733521](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2022)733521)

88 See Concluding observations on the combined fifth and sixth periodic reports of Austria 2020

- Ensure that sensitisation, awareness-raising campaigning and capacity building for families, schools and communities are aware of further layers of discrimination and vulnerability, such as being on the move.

Monitoring and Reporting

- **Schools** should ensure the existence and accessibility to all children of functioning and safe **monitoring and reporting mechanisms to prevent and respond to homophobic and transphobic bullying**. These mechanisms should be safe, accessible and accompanied by awareness-raising campaigning. They should be open to all LGBTI+ children and LGBTI+ staff who are target of abuse from peers or from others in the school context and should provide immediate and concrete action to ensure that homo/transphobia is not tolerated.

Resources

- Adequate resources should be provided within **schools, hospitals, and community centres to provide LGBTI+ children with counselling and support**, including remotely (online or correspondence).

Interagency and multi-sectorial collaboration

- Local communities should put in place **multi-agency efforts** to multi-disciplinary professionals and civil society organisations from child protection, child justice, LGBTI+ rights fields to address the **individual needs** of LGBTI+ children.

Positive narratives

- The media, as well as families and communities, should be considered as key stakeholders to **disseminate positive narratives about LGBTI+ people in general, more specifically children**.
- Social media should have in place and implement **clear and strong anti-hate crime and hate speech policies**, preventing any user, including public leaders and personalities, to use their platform to spread hatred and misinformation.

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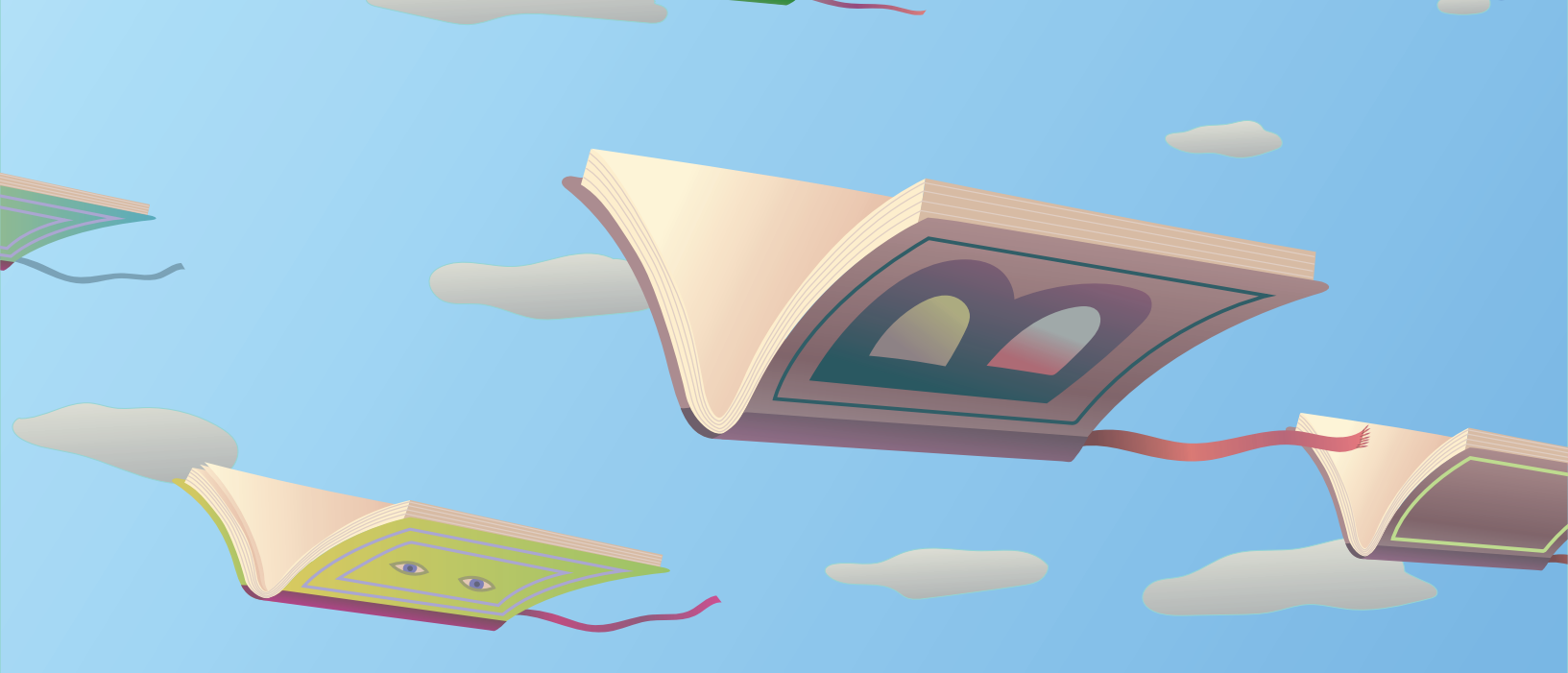
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LGBTI+ Glossary⁸⁹

This LGBTI+ glossary provides definitions of key concepts and expressions that are used throughout the policy brief and can accompany the reader.

The definitions and explanations provided below are intended to be a support for professionals working with children: the appropriate use of language and terminology that do not offend and/or feed internalised bias and stereotypes is one of the first steps for meaningful inclusion and protection of LGBTI+ and children's rights.

Expression/Word	Definition	Example
SEX	'Sex' is assigned at a person's birth and usually determined by their physical bodies	Mary was born with a female reproductive organ, so she is assigned as 'female' at birth.
GENDER	Gender refers to social roles ascribed to someone. Gender and sex do not always conflate	Since Mary was assigned female sex at birth, there are expectations she will act according to the female gender 'rules', and have interests considered 'womanly'.
SEXUALITY	A continuum of feelings and attractions, within which a person understands their sexual and intimate bodies	Jo can express his sexuality by how he presents himself to the world and by how he acts intimately
SEXUAL ORIENTATION	Usually defined by whom a person is emotionally, romantically, and/or erotically attracted to	Mary's sexual orientation is 'homosexual' because she is a woman attracted to women (same gender).
GENDER IDENTITY	The gender a person identifies with, regardless of their assigned sex or gender	Jo was assigned female at birth and socially prescribed as 'woman'. But Jo identifies as a man, so Jo's gender identity is male.
LESBIAN	Someone who identifies as a woman and is attracted (sexually and/or romantically) to other women	Mary is a woman attracted to women, so she considers herself lesbian.

⁸⁹ This glossary has been created using the following sources: the glossary on the TGEU website at <https://tgeu.org/glossary/>; Ghattas, D.C., Standing up for the human rights of intersex people – how can you help?, ILGA & OII, 2015; Dyer, H., The Queeriodic Table: a celebration of LGBTQ+ culture, 2019.

GAY	Man who is attracted (sexually and/or romantically) to another man	Markus is a man attracted to men, so he considers himself gay/
HOMOSEXUAL	Person (woman or man) who is attracted (sexually and/or romantically) to another person of the same gender	Mary and Markus' sexual orientation is 'homosexual' because they are attracted by people of the same gender.
HETEROSEXUAL	Person (woman or man) who is attracted (sexually and/or romantically) to another person of the opposite gender	Anne's sexual orientation is 'heterosexual' because she is a woman and she is attracted by men.
BISEXUAL	Person (woman or man) who is attracted (sexually and/or romantically) to persons both from the same or opposite gender	Tom is a man attracted both by women and other men, so he considers himself bisexual.
TRANSGENDER (trans, as a common abbreviation)	Someone whose true gender identity is different to the gender they were assigned at birth based on their sex. Gender is an internal experience and not a person's sex characteristics Thus, someone might identify as transgender and decide to undertake or not a process of transition to align their body and appearance to their gender identity	Jo was assigned female at birth and socially prescribed as 'woman'. But Jo does not identify as a woman, and he identifies as a transgender man
TRANSGENDER MAN/ BOY OR TRANS MAN/ BOY OR FTM (Female to Male)	These are terms that may be used by people who were assigned female at birth but identify and live as men Some may prefer to simply be called men, without any modifier. It is best to ask which term an individual prefers	Jo was assigned female at birth and socially prescribed as 'woman'. But Jo does not identify as a woman, and he identifies as a transgender man.
TRANSGENDER WOMAN/ GIRLS OR TRANS WOMAN/GIRL OR MTF (Male to Female)	These are terms that may be used by people who were assigned male at birth but identify and live as women Some may prefer to simply be called women, without any modifier. It is best to ask which term an individual prefers	Andrea was assigned male at birth and socially prescribed as 'man'. But Andrea does not identify as a man, and she identifies as a transgender woman.
GENDER TRANSITION	Transition includes some or all of the following personal, medical, and legal steps: telling one's family, friends, and co-workers; using a different name and new pronouns; dressing differently; changing one's name and/or sex on legal documents; hormone therapy; and possibly (though not always) one or more types of surgery. The exact steps involved in transition vary from person to person	Andrea and Jo decided to take the steps towards changing their gender. They therefore went through a gender transition.

INTERSEX	Intersex individuals are born with sex characteristics (such as chromosomes, genitals, and/or hormonal structure) that do not belong strictly to male or female categories, or that belong to both at the same time. 'Intersex' stands for the spectrum of variations of sex characteristics that naturally occur within the human species. It also stands for the acceptance of the physical fact that sex is a spectrum and that people with variations of sex characteristics other than male or female do exist	Johnny is intersex, born with XXY chromosomes, which means that their body naturally produces the testosterone level of an adult woman and high estrogen levels, and with very small testicles, small penis and breasts. Medical standards assume that the majority of XXY humans are male. As a result, Johnny was treated with testosterone as early as 8 and raised as a boy, but never identified themselves as male nor female
CISGENDER	Someone whose gender identity is aligned with the sex assigned at birth	Mary is cisgender because she was assigned a female at birth, and she identifies as a woman.
QUEER/OTHER IDENTITIES (+)	'Umbrella' term for multiple gender identities, sexual orientations, and other minorities within the LGBTI+	If Andrew says "I am queer", it means that they are part of a group of the LGBTI+ community and/or they do not identify in any specific gender identities assigned by society.
NON-BINARY	An umbrella term to refer to all gender identities which somehow differ from the notions of women and men. A non-binary or genderfluid or genderqueer person is a person whose gender is not fixed and whose gender identity moves within a spectrum Some genderqueer people use neutral pronouns like "they" and "them"	Sacha does not identify themselves either as female or as male. They identify themselves as non-binary or gender fluid and would like to be addressed with the pronouns "they/ them".
PREFERRED PRONOUNS	Set of personal pronouns a person prefers to be called by. In English, the most common are she/her, he/him, they/them	Andrew's preferred pronouns are they/ them, so we should say: "Andrew told us that their favourite fruit is strawberry."
HATE CRIME	A criminal act with a bias motive Hate crimes include intimidation, threats, property damage, assault, murder or any other criminal offence where the victim, premises or target of the offence are selected because of their real or perceived connection, attachment, affiliation, support or membership of a protected group The two essential ingredients of a hate crime are that: a) a criminal offence has occurred and b) the offender had a bias motive	Ahmed is assaulted and beaten on the street by a group of men who while beating him would insult him for his queer/feminine appearance and for being gay.

	Hate crimes against LGBTI persons are criminal acts with a bias motive, where the victim, premises or target of the offence are selected because of their real or perceived connection, attachment, affiliation, support or membership of an LGBTI group	
HATE SPEECH	It refers to public expressions which spread, incite, promote or justify hatred, discrimination or violence towards a minority group – for example, statements made by political and religious leaders or other opinion leaders circulated by the press or the Internet which aim to incite hatred Hate speech may or may not be a crime depending on local legislation.	The leader of the opposition party makes a post on her facebook page that is verbally violent against transgender people and incite her followers to use derogatory language and hatred towards them.
HOMOPHOBIA	Irrational fear of, and aversion to, persons perceived as homosexual, based on prejudice, or unfamiliarity/lack of information	Mary and her girlfriend have troubles finding a new apartment because people turn them down when they realise that they are a lesbian couple.
BIPHOBIA	Irrational fear of, and aversion to, persons perceived as bisexual, based on prejudice or unfamiliarity/lack of information	
TRANSPHOBIA	Irrational fear of, and aversion to, persons perceived as transgender based on prejudice	Jo cannot get a job because employers do not want to hire a transgender person.
TO MISGENDER	To use an incorrect pronoun (different than the one preferred by the person) intentionally or unintentionally to refer to someone	Jo is an openly transgender man, and his pronouns are he/him/his, but at work there is still some colleagues that address him using the pronouns she/her.
HETERONORMATIVITY	Assumption that there are only two genders (man and woman), and the only acceptable form of couple is between a man and a woman	When someone believes that Mary and her girlfriend should not be allowed to marry and raise children because they are two women in a romantic relationship.

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