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Advancing Liveable Lives for Lesbians in Europe Intersectional Challenges and Future Policymaking

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With Contributions by Dr Anna Carastathis, Julia Lagerman,
Dr Marta Olasik and Professor Alina Tryfonidou

Table of contents

1	Introduction	4
2	Method	6
3	Lesbian rights under EU law (Alina Tryfonidou)	8
	3.1 The EU legal framework: How are lesbian women* protected under EU law?	9
	3.2 How has ECJ jurisprudence contributed to the protection of the rights of lesbian women* under EU law?	12
	3.3 Conclusion—summary of the chapter	18
4	Advancing liveable lives for lesbians in Europe	19
	4.1 Family and parenthood	19
	4.2 Socio-economic inequalities	24
	4.3 Race, racism and intersectionality	26
	4.4 Disability	31
	4.5 Elderly lesbians	32
	4.6 Youth and school	32
	4.7 Violence	33
	4.8 Health inequalities	35
	4.9 Work and employment	36
	4.10 Media, representations and public discourse	37
	4.11 Rural lives	38
	4.12 LGBTIQ organisations and civic participation	39
5	Country case studies	40
	5.1 Poland (Marta Olasik)	40
	5.2 Sweden (Julia Lagerman)	44
	5.3 Greece (Anna Carastathis)	49
	5.4 Germany (Stefanie Boulila)	53
6	Summary and recommendations	57
	6.1 Recommendations	59
7	Contributors	63
8	Literature	65

1

Introduction

This research report has been commissioned by the German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ). This report assesses the need for a specific focus on lesbians in European equality and anti-discrimination policies.¹ The use of lesbian, gay, bisexual and transgender (LGBT) as a policy category has been criticised for lumping together diverse life realities. The call to focus on lesbians can be read as a response to the gender indifference and erasure of lesbians from LGBT policy debates.

Lesbian lives in Europe are highly diverse. The term lesbian is a contested political and social category. As an identity, it is most commonly claimed by women who desire other women. This departure from the heterosexual norm exposes lesbians to marginalisation and discrimination. However, not all lesbians identify with the category woman. For many lesbians, the category woman is a source of gender stereotypes. Certain lesbians break with norms of feminine gender presentation. Others claim alternative terms to consolidate their sexual identities with their gender identity, for example, by identifying as butch lesbians, genderqueer or non-binary lesbians, trans*² lesbians or femme lesbians.

Nonetheless, in policy and academic discourses, the term sexual orientation is often used without paying attention to gender. Academically, the category lesbian has therefore been deemed helpful in naming and describing how heteropatriarchal norms affect women (Banerjea et al., 2019; Butler, 1993; Boulila, 2015). The category lesbian renders visible the specific effects homophobia, heterosexism and heteronormativity have on women and those who identify as lesbians but not as women. The term lesbian, therefore, captures specific experiences of discrimination, disenfranchisement and violence.

This report queries how European equality and anti-discrimination policies can better account for the needs of lesbian women. Besides understanding lesbian as a contested and heterogeneous category, this report understands the category woman as inter*- and trans*-inclusive. In order to reveal this inclusivity in addition to marking many lesbians' suspicion towards the category woman, the term will be marked with an asterisk (woman*). Due to the study's limited time frame, this report will not be able to provide an in-depth exploration of the specific challenges faced by trans* and intersex lesbians. Neither will it be able to examine the specific challenges of

1 Call title: Bedarf der Sichtbarkeiten von LGBTI-Frauen* für die (europäischen) Gleichstellungs- und Antidiskriminierungspolitiken
2 This report uses the term trans* as an inclusive means to refer to transgender and transsexual identities and life trajectories.

bisexual women*. However, it does aim to uncover issues that are relevant to bisexual, trans* and intersex women* where possible. In instances where issues affect lesbian, bisexual, trans* and intersex women* (LBTI women*), the report will make these different groups visible through a nuanced use of language.

The report commonly refers to the term heteronormativity, which critiques the assumption that heterosexuality is the primary, natural and normal expression of sexuality. It further uses the term homophobia to refer to anti-gay hostility. The report does not use the term in its psychological connotation to refer to fear, as this has been criticised as individualising (Browne et al., 2015; Boulila, 2019b). Heteronormativity and homophobia are instead understood to be connected to each other and an expression of social power relations.

This report evaluates the need for specific equality and anti-discrimination policies that focus on lesbians. Chapter two describes the methodology that was used to identify the intersectional needs of lesbians in Europe. Chapter three, 'Lesbian rights under EU law', authored by Alina Tryfonidou, explores the legal framework for LGBT and in particular lesbian rights. It examines European Union (EU) provisions, instruments and European Court of Justice (ECJ) rulings that benefit lesbians. Chapter four unfolds in twelve thematic subsections that illustrate not only specific inequalities faced by lesbians but also relevant policy areas, institutions, strategies and best practice examples. Chapter five explores convergences and divergences between European and national equality and anti-discrimination policies. These convergences and divergences further provide insight into national policymaking and draw attention to the situated challenges of lesbians in Poland, Sweden, Greece and Germany. Chapter six closes with a summary and policy recommendations.

2

Method

This report assesses the need to specifically attend to lesbians in European equality and anti-discrimination policies. It does so by identifying the intersectional needs and challenges faced by lesbians in the EU. The report further identifies policy areas, institutions, instruments and strategies that are crucial in addressing the inequalities lesbians encounter. These two concerns are addressed in chapters three, four and six of this report.

The lack of interdisciplinary debates and the uneven geographical distribution of research into sexual minorities make it particularly difficult to provide nuanced analyses of what challenges particular sexual minorities face across Europe. Specific data or knowledge on the situation of lesbians is particularly hard to find, as academic and policy debates surrounding LGBT rarely focus on lesbian women*. These problematics require a reflexive method of inquiry that identifies not only issues of concern but also gaps in what is known in addition to the side effects to our means of knowing.

While chapter three provides a legal analysis of lesbian rights under EU law authored by Alina Tryfonidou, chapter four aims to move beyond the questions of rights. Chapter four bases on a transdisciplinary narrative literature review of

academic studies and certain research published by non-governmental organisations (NGOs). A narrative literature review aims to describe, synthesise and evaluate existing literature. The review was guided by the following questions:

- What specific challenges and marginalisations do lesbians face in Europe?
- What are the gaps in existing research?
- Are there any side effects to our means of knowing about these issues?

The literature search was conducted through academic databases and search engines. The thematic clusters of chapter four were formed through the existing literature.

The analysis of the themes aimed to transcend a legal approach to advancing LGBT equalities and social justice. Especially scholars in the social sciences have pointed to the limitations of the liberal rights paradigm (Banerjea and Browne, 2018; Browne et al., 2015; Marušić and Bilić, 2016; Rao, 2014; Kuriakose and Deepa, 2019). Academics have argued that a lone focus on liberal rights fails to address the lived experiences of LGBTQ³ subjects. Moreover, the sole focus on rights in policy

3 LGBTQ stands for lesbian, gay, bisexual, transgender and queer. Trans* is often written with an asterisk to mark the multiple experiences and identities that fall into this category. Queer is used as an inclusive term for non-normative identities that do not fall under the preceding categories. For many, claiming a queer identity is also a means to distance themselves from assimilationist LGBT politics.

and activist discourse has marginalised questions that cannot be legislated. This has displaced broader demands for social justice and initiatives that aim to make non-heterosexuality more acceptable (Banerjea and Browne, 2018; Marušić and Bilić, 2016).

The idea that legal changes and policies trickle down into society has also been contested in academic literature. People have argued that access to legal justice and rights is rooted in social class, cultural capital and financial means (Taylor, 2007a; McDermott, 2011). It is noteworthy that knowledge and skills prescribed by laws and policies are not acquired automatically (Nothdurfter and Nagy, 2016). This includes changing the attitudes of civil servants, doctors, law enforcement personnel and social work professionals.

Besides an analytical focus on lived experiences, the analysis in chapter four is guided by an intersectional analytical perspective. LGBT coalition politics have been critiqued for failing to cater to minorities amongst LGBTQ populations. An intersectional approach aims to address how structural systems of oppression relate to each other by revealing how minorities within minorities are created and disenfranchised in struggles for equality and justice (Crenshaw, 1989; Carastathis, 2016).

The thematic analysis in chapter four, therefore, emphasises lived and intersectional experiences of lesbians in Europe, while also pointing to the gaps and side effects of existing research, activism and policies. Chapter five, 'Country case studies', illus-

trates convergences and divergences of equality and anti-discrimination policies between the EU and national levels. Through four country case studies of Poland, Sweden, Greece and Germany, chapter five explores how equality and anti-discrimination policies cater to lesbians. The case studies were authored by country experts and guided by a set of questions that asked the authors to evaluate if and how gender and LGBTQ equality state institutions, action plans and civil sector organisations specifically attend to lesbians and where they identify gaps. The deployed method in this study aims to produce nuanced knowledge about the social and political situation of lesbians in Europe through twelve themed sections in chapter four and through the country case studies that were chosen to represent different geographical and cultural locations within the EU.

Chapter four's first three sub-chapters, 'Family and parenthood', 'Socio-economic inequalities' and 'Race, racism and intersectionality', provide a more comprehensive analysis of issues, potential roads ahead and best practice examples. The decision to explore these three topics in more depth resulted from the discussion at a BMFSFJ expert workshop that aimed to identify priorities in lesbian policymaking. However, within the research period, it was not possible to explore all themes that emerged from the literature research. The omitted themes include culture, faith and religious institutions, leisure, sport and public space. These themes were omitted not because they are less important but because there is a lack of research about these issues in Europe, and they would require an analysis that also deploys empirical methods.

3

Lesbian rights under EU law (Alina Tryfonidou)

What today is the EU, began life in the form of three economically oriented communities in the 1950s: the European Coal and Steel Community (ECSC), the European Economic Community (EEC) and the European Atomic Energy Community (Euratom).⁴ Given the economic nature of these communities, both the relevant and eponymous treaties that established them did not include any reference to human rights.⁵ The rationale behind this was that it was unlikely that the institutions built for executing the policies of the three communities would engage in any human rights violations when exercising the competences—mainly economic—of the communities. It was thus deemed unnecessary to make any provision for the protection of human rights as a matter of Community law (Craig and de Búrca, 2015, 382). Needless to say, the founding treaties made no reference to the rights of LGBT persons either, which comes as no surprise given that a number of the EU’s founding states maintained a criminal provision prohibiting sodomy at the time that the treaties were negotiated (Tryfonidou, 2018, 230–231).

In 1969, the ECJ did, however, recognise fundamental human rights as forming part of the general principles of Community law in its judgment in the *Stauder* case.⁶ Coming into force in 1993, the Maastricht Treaty—also known as the Treaty on European Union (TEU)—consolidated this development, which is now reflected in Article 6(3) TEU.⁷

LGBT rights are, however, to this day conspicuous by their absence in the constituent EU treaties, namely, the TEU and the Treaty on the Functioning of the European Union (TFEU). In particular, there is no reference specifically to LGBT persons in any of the treaties’ provisions. Despite this, certain provisions of the treaties have played an important role in the development of a legal framework, which has contributed to the protection of LGBT persons against discrimination. This legal framework, together with the ECJ’s rulings in cases involving LGBT persons, has laid the foundations for the protection of LGBT rights under EU law. This chapter’s objective is to summarise these foundations.

4 Throughout this chapter, the currently applicable term EU will be used even when referring to the period prior to the establishment of the EU, that is prior to 1993 when what is today the EU took the form of the three communities noted in the main text.

5 For an excellent account of the EU’s history, see L. Van Middelaar, *The Passage to Europe: How a Continent became a Union* (2014, Yale University Press).

6 Case 29/69 *Stauder v. City of Ulm-Sozialamt* ECLI:EU:C:1969:57.

7 Article 6(3) TEU stipulates: ‘Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union’s law.’

Given that this project focuses on the rights of lesbians, in the remaining part of this chapter reference will be made to the rights that lesbians enjoy under EU law. **It should be noted, however, that there are no EU law provisions that are specifically applicable only to lesbian women*;** instead, lesbians benefit from the EU provisions, instruments and ECJ rulings described in this

chapter, as these provisions, instruments and rulings seek to protect certain rights that persons of a homosexual orientation and persons of a bisexual sexual orientation enjoy under EU law. This one-size-fits-all approach, nonetheless, means that issues and considerations that are applicable only to lesbian women* are not taken into account or are ignored.

3.1 The EU legal framework: How are lesbian women* protected under EU law?

As noted in the previous section, the founding treaties did not contain a reference to fundamental human rights or, more specifically, to LGBT rights. Despite this, a number of tentative steps aiming to protect the rights of gays and lesbians were taken by the EU in the 1980s. However, until 1999, all initiatives to this effect consisted of adopting soft legal measures which, whilst of symbolic value, in practical terms achieved very little (Tryfonidou, 2018, 230–233).

The first legally binding provision that led to the development of a legal framework, which contributed to the protection of lesbian women* and, more broadly, all persons of a bisexual and homosexual sexual orientation against discrimination, was introduced in 1999. This was Article 13 of the European Community Treaty (TEC), which became **Article 19 TFEU in 2009** as a result of the Treaty of Lisbon amendments.⁸ This is merely a competence-giving provision, which enables the EU legislature to make legislation for combating discrimination based on, inter alia, sexual orientation: Article 19 TFEU does not give the right to lesbians not to be discriminated against

on the ground of their sexual orientation but simply enables the EU to make legislation to prohibit discrimination on this ground. Article 19 TFEU requires the EU legislature to use the special legislative procedure when legislation, which is based on this legal basis, is made. This procedure requires the Commission to send the proposal to the Council of the EU which, acting unanimously, must approve the proposal to become law after obtaining the European Parliament's consent.

The first legally binding prohibition of discrimination on the grounds of sexual orientation under EU law was laid down in **Directive 2000/78**, the legal basis of which was the predecessor of Article 19 TFEU, that is Article 13 TEC.⁹ The directive, which is still in force today, prohibits direct and indirect discrimination on the grounds of religion or belief, disability, age or sexual orientation in the areas of employment, vocational training and membership of a professional organisation.¹⁰ It makes clear that harassment based on any of these grounds is a prohibited form of discrimination.¹¹ Furthermore, provision is made for remedies and enforcement, with particular attention to the

8 Article 19 TFEU provides: '1. Without prejudice to the other provisions of the Treaties and within the limits of the powers conferred by them upon the Union, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. 2. By way of derogation from paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt the basic principles of Union incentive measures, excluding any harmonisation of the laws and regulations of the EU Member States, to support action taken by the Member States in order to contribute to the achievement of the objectives referred to in paragraph 1.'

9 Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation [2000] OJ L303/16.

10 Ibid, Articles 1–3.

11 Directive 2000/78 (above n. 6), Article 2(3).

promotion of dialogue between social partners, the encouragement of dialogue with appropriate NGOs that have a legitimate interest in contributing to the fight against discrimination, and the promotion of the principle of equality.¹² Directive 2000/78 is a minimum harmonisation measure. This means that it enables EU Member States to introduce or maintain provisions that are more favourable for the normally disadvantaged groups sought to be protected by this instrument than those laid down in the directive itself.¹³

Although Directive 2000/78 is hugely important in that it has been the first EU instrument to establish a binding prohibition of discrimination on the grounds of sexual orientation, it has, however, been criticised for not going far enough in protecting LGB persons against discrimination. Specifically, its main weakness is its limited material scope, which only covers employment, vocational training and membership of a professional organisation. This means that this directive does not apply in other areas, such as social protection, social advantages, education, and access to and supply of goods and services which are available to the public, including housing. Accordingly, although EU Member States are required to have legislation in place that prohibits, for instance, employers from refusing to offer a position to a lesbian woman on the grounds of her sexual orientation, the directive does not require Member States to offer protection against discrimination to a lesbian woman who is refused a room at a bed and breakfast on the basis of her sexual orientation. The former falls within the material scope of the directive because it is about discrimination on the grounds of sexual orientation with regards to access to employment, whereas the latter does not, as it is about the provision of services available to

the public, which falls outside the material scope of the directive.

To remedy this shortcoming, the EU Commission submitted a **proposal for a new equality directive** in 2008. This new directive would complement the existing Directive 2000/78 by extending the prohibition of discrimination set out in the latter beyond the employment field to apply to social protection (including social security and health care), social advantages, education, and access to and supply of goods and services which are available to the public, including housing.¹⁴ However, despite extensive discussions since 2008 regarding the substance of the proposed directive and the amendments to the original proposal, there are no signs that unanimity in the EU Council—as required by the legal base of Article 19 TFEU—will be achieved any time soon; thus, the proposal remains in legal limbo at the moment.

However, not all is lost. **Article 21 of the EU Charter of Fundamental Rights¹⁵ (EUCFR or ‘the Charter’)**¹⁶ prohibits discrimination based on, inter alia, sexual orientation. Importantly, unlike Directive 2000/78, whose material scope is limited to the areas of employment, vocational training and membership of a professional organisation, the material scope of the Charter is not limited and, thus, can apply in all areas of human life. Hence, lesbians can rely on Article 21 EUCFR to challenge instances of discrimination based on their sexual orientation, also with regards to matters that do not relate to employment. However, the Charter’s general scope of application is not unlimited and according to its Article 51, although it binds the EU institutions, bodies, offices and agencies in all instances, it binds the EU Member States ‘only when they are implementing Union

12 Ibid, Articles 9, 13, 14.

13 Directive 2000/78 (above n. 6), Article 8.

14 Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation COM (2008) 426

15 Charter of Fundamental Rights of the European Union [2012] OJ C 326/02

16 Article 21 EUCFR stipulates: ‘1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. 2. Within the scope of application of the Treaties and without prejudice to the special provisions of those Treaties, any discrimination on the grounds of nationality shall be prohibited.’ According to Article 6(1) TEU (as amended by the Treaty of Lisbon in 2009), ‘the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg on 12 December 2007, which shall have the same legal value as the Treaties’.

law'.¹⁷ Since it is still not entirely clear when this latter requirement is satisfied (Craig and de Búrca, 2015, 409–419), the extent to which this provision can be relied on against EU Member States will depend on the ECJ's willingness to interpret it broadly.

Lastly, the Treaty of Lisbon amendments in 2009 also introduced **Article 10 TFEU**,¹⁸ which is a mainstreaming provision stipulating that '[i]n defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.' This provision seeks to proactively ensure—or, at least requires EU institutions to ensure—that all EU policies should be free from discrimination on, inter alia, the grounds of sexual orientation. In this manner, it suitably complements the reactive protection against this sort of discrimination, which is offered by the Charter, secondary EU legislation, that is Directive 2000/78, and by the ECJ. To date, there has been no evidence that this provision has had any real impact on policymaking or law-making at EU level. Nonetheless, Article 10 TFEU has the potential to play a very significant role in integrating the fight against discrimination into all EU policies and actions: put differently, if Article 10 TFEU is taken seriously, this will mean that all EU actions and policies will not only be free from discrimination based on sexual orientation, but they will also aim to contribute to the fight against discrimination on this ground.

Accordingly, under EU law, lesbians enjoy the right not to be discriminated against on the basis of their sexual orientation by EU institutions, bodies and agencies as well as by the EU Member States when the latter implement EU law (Article 21 EUCFR). Furthermore, Directive 2000/78 requires all EU Member States to have implemented legislation that prohibits discrimination on the grounds of sexual orientation in specific areas; thus, lesbians also derive the right not to be discriminated against concerning matters relating to their employment, vocational training and membership of a professional organisation. As will become evident in the next section, in its case law, the ECJ has interpreted both Directive 2000/78 and Article 21 EUCFR, along with other instruments, which have bolstered the rights that lesbians—and more generally persons with a homosexual or bisexual sexual orientation—enjoy under EU law.

17 Article 51(1) EUCFR stipulates: 'The provisions of this Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the Treaties.'

18 Article 10 TFEU stipulates: 'In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.'

3.2 How has ECJ jurisprudence contributed to the protection of the rights of lesbian women* under EU law?

Case law before the introduction of binding EU law provisions protecting LGB rights

The first two cases that were referred to the ECJ—through the preliminary rulings procedure,¹⁹—which involved claims by LGB persons, led to disappointing rulings from the viewpoint of LGB equality. In the first case, *Grant*,²⁰ the eponymous claimant, a lesbian employee of South-West Trains, claimed that the refusal of her employer to grant travel concessions to her female partner—whereas such concessions were granted to the female partner of her male predecessor in the post—amounted to discrimination on the ground of sexual orientation, which should be considered prohibited by EU law. Alternatively, the claimant argued, if discrimination on the ground of sexual orientation was not prohibited by EU law, the contested discrimination could be considered to amount to a guise of discrimination on the ground of sex: it was well-established that discrimination on the ground of sex was prohibited by EU law. The ECJ concluded that the contested refusal did not amount to a breach of EU law and in doing so relied on three arguments. Firstly, the condition for the grant of the concession, that is that the employee’s partner is of a different sex from the employee, did not constitute discrimination based on sex since it applied similarly to female and male workers: the

concessions were refused to a male worker if he lived with a person of the same sex, just as they were to a female worker who lived with a person of the same sex (the equal misery argument). Secondly, the court explained that as things were at the time, stable relationships between two persons of the same sex were not regarded as equivalent to marriages or stable relationships outside marriage between persons of the opposite sex and, thus, employers were not required, at the time, to treat the former in the same manner as the latter two. In conclusion, the court explained that at the time that the ruling was delivered,²¹ discrimination on the ground of sexual orientation was not prohibited by EU law.

The same disappointing approach was demonstrated by the ECJ in an appeal in a staff case (**D and Sweden v. Council**).²² The case involved the Council of Ministers’ refusal to grant a household allowance to one of its employees who was in a same-sex registered partnership because the version of the staff regulations that was applicable at the time made such an allowance available only to a married official.²³ The ECJ repeated the arguments it had relied on in its *Grant* ruling and concluded that the contested refusal of the Council of Ministers did not amount to a breach of EU law, thus dismissing the appeal. The staff regulations have since been amended to make the household allowance available to both opposite-sex and same-sex couples in equal terms.²⁴ However, the

19 The preliminary rulings procedure is set out in Article 267 TFEU and enables national courts hearing a case that involves an EU law issue to stay the proceedings before them and make a reference for a preliminary ruling to the ECJ, asking it to rule on the interpretation of EU law provisions or on the validity of EU secondary legislation.

20 Case C-249/96 *Grant v. South-West Trains* ECLI:EU:C:1998:63

21 The ruling was delivered in 1998, that is prior to the introduction of Article 13 TEC and the legislation (Directive 2000/78). Article 13 TEC and Directive 2000/78 are based on the ruling.

22 Case C-122/99 P and C-125/99P *D and Sweden v. Council* ECLI:EU:C:2001:304

23 Article 1(2) of Annex VII to the Staff Regulations of Officials of the European Communities

24 A subsequent version of the staff regulations, which provided for equal entitlements for opposite-sex and same-sex couples, was interpreted by the Civil Service Tribunal in a manner that took into account the practical difficulties specifically same-sex couples encounter in certain circumstances. Specifically, in Case F-86/09 *W v. European Commission* ECLI:EU:F:2010:125, the Civil Service Tribunal noted that the requirement in the staff regulations applicable at the time, that is that the household allowance be extended to unmarried couples if it can be proven that the couple has no access to legal marriage in an EU Member State, should be read as requiring that ‘the administration cannot disregard the provisions of the law of another State with which the situation in question is closely connected because of the nationality of the persons concerned, where that law, although not applicable to matters relating to the formation of marriage, could render access to marriage and therefore the right to the household allowance theoretical and illusory. That is particularly true of a national law which criminalises homosexual acts without making any distinction according to the place where the homosexual act is committed’ (para. 45).

court's reasoning in this case, like in *Grant*, demonstrates that deep-seated homophobia was prevalent in the EU's judiciary as late as the early 2000s.

Case law involving Directive 2000/78

Matters began to improve, nonetheless, a few years later, when the court was asked for the first time to rule on the interpretation of Directive 2000/78. In three judgments delivered between 2008 and 2013 (*Maruko*, *Römer*, *Hay*),²⁵ the court held that the directive requires employers to treat same-sex registered partners in the same manner as married opposite-sex couples. This, however, presupposes that the EU Member State has not opened marriage to same-sex couples²⁶ and that its laws treat same-sex registered partnerships for a certain purpose like pensions as equivalent to marriage. If this is the case, employers must extend for that purpose, that is pensions, to same-sex registered partners the treatment they afford to opposite-sex married couples. If the employers do not, there is direct discrimination on the ground of sexual orientation contrary to the directive. Accordingly, lesbians who are in a registered partnership in an EU Member State that has not opened marriage to same-sex couples can require their employers to extend to them and their registered partners the same treatment that is afforded to opposite-sex married couples with regards to matters for which the two statuses are treated as equivalent under national law.

The court's rather positive approach towards the rights of persons of homosexual and bisexual sexual orientation continued in its first ruling in a case that involved the rights of gay and lesbian individuals as opposed to same-sex couples. This was the case of *Asociația Accept*,²⁷ where the court held that an action under Directive 2000/78 can be

brought by an NGO in the absence of an identifiable claimant. This is a principle previously established in a case²⁸ involving the Race Equality Directive.²⁹ However, the application of this principle in cases involving discrimination on the grounds of sexual orientation is particularly important, as it enables actions to be brought against homophobic employers without there being a need for LGB persons to come out and reveal their sexual orientation at a time when they may not be ready or in circumstances that will make them suffer negative consequences, such as social ostracism. This, in the words of Belavusau and Kochenov, revolutionises 'perspectives for future development of non-discrimination law in Europe', as it opens the door to 'strategic litigation either by a strong and genuinely independent equality body or by an autonomous human rights organisation' (Belavusau and Kochenov, 2016, 83). Moreover, that the ECJ in this case held mere homophobic statements based on a hypothetical, potential scenario as sufficient for a finding that the directive had been breached—which shows that there is no need for an actual discriminatory incident to have taken place—is important because it demonstrates that EU law does not merely aim to protect the rights of specific LGB persons *ex post* after they have been breached but also, more broadly, to prevent any actions that create a homophobic climate in society and encourage discriminatory practices against persons of a homosexual or bisexual sexual orientation (Belavusau, 2015). *Asociația Accept* has recently been affirmed in *NH*, where the court provided additional clarifications regarding the interpretation of the directive in cases involving homophobic speech in the area of employment.³⁰

In contrast, in a subsequent case, the ECJ appears to have taken a backward step in its approach towards the protection of same-sex couples against discrimination under Directive 2000/78.³¹

25 Case C-267/06 *Maruko* ECLI:EU:2008:179; Case C-147/08 *Römer v. Freie und Hansestadt Hamburg* ECLI:EU:C:2011:286; Case C-267/12 *Hay* ECLI:EU:C:2013:823

26 If it has opened marriage to same-sex couples, then the EU Member State anyway has to treat opposite-sex and same-sex married couples in the same manner.

27 Case C-81/12 *Asociația Accept* ECLI:EU:C:2013:275

28 Case C-54/07 *Feryn* ECLI:EU:C:2008:397

29 Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJ L180/22

30 Case C-507/18 *NH v. Associazione Avvocatura per I diritti LGBTI—Rete Lenford* ECLI:EU:C:2020:289

31 It should be noted that in between *Asociația Accept* and *Parris*, the ruling in the case of *Léger* (Case C-528/13 *Léger* ECLI:EU:C:2015:288) was delivered. However, since the *Léger* case involved the compatibility with Article 21 EUCFR of a national ban on the donation of blood by men who have sex with men (MSM) and since such a prohibition is never imposed when it comes to blood being donated by lesbian or bisexual women, the *Léger* case will not be discussed in this report.

This was the case of **Parris**,³² which involved the compatibility of an Irish pension scheme with the directive. Specifically, at issue was the requirement in the scheme that in order for a member of the scheme to be able to designate their spouse or registered partner as the person entitled to receive a survivor's pension in the event of the member's death, their marriage or registered partnership should have been concluded before the member of the scheme turned 60. Ireland has allowed same-sex couples to enter into a registered partnership only from 1 January 2011. Moreover, same-sex registered partnerships contracted abroad can only be recognised from 1 January 2011. In 2015, same-sex marriage was introduced in Ireland, although the facts of the Parris case arose before the introduction of same-sex marriages.

The contested pension scheme requirement was, indeed, a universal condition that was applicable equally to both opposite-sex and same-sex couples. However, that Irish law did not allow LGB persons in Ireland to enter into a same-sex registered partnership until 2011, combined with the universal age condition (60 years of age) for designating someone's registered partner or spouse as the person entitled to a survivor's pension, meant that a specific group of LGB persons, that is LGB persons born before 1951 up to and including LGB persons who turned 60 before 2011 when they could enter into a registered partnership, would be disadvantaged by being unable under any circumstances to provide for their same-sex registered partners in case they predeceased them. Same-sex couples were under a legal disability, as they could not formalise their relationship in Ireland until a specific date: 2011. Hence, this placed them in a different position from their heterosexual peers who did not face a similar legal disability. By treating these two—differently situated—categories of persons in the same manner, the contested requirement, therefore, led to discrimination against same-sex couples who suffered a

disadvantage as a result of their legal disability not being taken into account when formulating the relevant pension scheme's rules.

The ECJ, however, dismissed the claim, noting that EU Member States are 'free to provide or not to provide for marriage for persons of the same sex, or an alternative form of legal recognition of their relationship, and, if they do so provide, to lay down the date from which such a marriage or alternative form is to take effect'.³³ The court, therefore, chose to wash its hands of the matter, allowing the perpetuation of discrimination on the grounds of sexual orientation caused by a pension scheme when regulating the financial consequences ensuing from the legal recognition of relationships (Tryfonidou, 2017).³⁴

Case law involving other instruments relied upon by LGB persons and same-sex couples

1. LGB asylum seekers

To date, the ECJ was asked in three cases involving LGB asylum seekers to interpret the EU instrument that sets out the standards for third-country nationals or stateless persons qualifying as refugees.

In the first case, **(X, Y and Z)**,³⁵ the ECJ was asked to interpret Directive 2004/83. This aforesaid directive is now repealed and replaced by Directive 2011/95, to be dealt with subsequently.³⁶ The X, Y and Z case involved the Netherlands rejecting an asylum application by three gay men. These three men claimed they should be granted refugee status on the ground that they had reason to fear persecution in their countries of origin—Uganda, Sierra Leone and Senegal—on account of their homosexuality, as in those countries homosexuality is a criminal offence. Their applications were

32 Case C-443/15 Parris ECLI:EU:C:2016:897

33 Ibid, para. 59

34 For a recent ECJ ruling, which considers the temporal scope of Directive 2000/78, see Case C-258/17 E.B. v. Versicherungsanstalt öffentlich Bediensteter BVA ECLI:EU:C:2019:17.

35 Joined Cases C-199-201/12 X, Y and Z ECLI:EU:C:2013:720

36 Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (now repealed) [2004] OJ L304/12

rejected because although their homosexual sexual orientation was credible, they had not proved to the required legal standard the facts and circumstances relied upon and, therefore, had failed to demonstrate that on return to their countries of origin they had a well-founded fear of persecution by reason of their membership of a particular social group. The ECJ held that LGB persons ‘form a particular social group, membership of which may give rise to a genuine fear of persecution’, within the meaning of Article 10 of the Directive 2004/83.³⁷

- a) a person’s sexual orientation is a characteristic so fundamental to his identity that he should not be forced to renounce it; and
- b) the existence of criminal laws, which specifically target homosexuals, supports a finding that those persons form a separate group that the surrounding society perceives as being different. However, the criminalisation of homosexual acts alone does not in itself constitute persecution for the purposes of the directive. In contrast, a term of imprisonment sanctioning homosexual acts can be regarded as a punishment that is disproportionate or discriminatory and thus constitutes an act of persecution, which enables those on whom it has been imposed to seek asylum under Directive 2004/83. The court also explained that requiring LGB persons to conceal their sexual orientation is incompatible with the recognition of a characteristic so fundamental to a person’s identity that the persons concerned cannot be required to renounce it: accordingly, LGB persons cannot be expected to conceal their sexual orientation in their country of origin in order to avoid persecution.

The **A, B and C**³⁸ case that followed was also referred to the ECJ by a Dutch court. It involved A,

B and C, who applied for asylum in the Netherlands, stating that they feared persecution in their countries of origin on account of, specifically, their homosexuality. Their applications were rejected as not being credible. The Dutch authorities’ decision was, again, assessed for its compatibility with Directive 2004/83. The questions referred concerned the limits imposed by the directive on the method of assessing a declared sexual orientation’s credibility for the purposes of an asylum claim. For this purpose, the ECJ ruled that the competent national authorities examining an asylum application are precluded from subjecting the applicant’s statements and the documentary and other evidence submitted in support of his application to an assessment consisting of questions based only on stereotyped notions concerning homosexuals. Furthermore, the competent national authorities are precluded from carrying out detailed questioning as to the applicant’s sexual practices and cannot accept evidence such as the performance by the applicant of homosexual acts, his submission to tests with a view to establishing his homosexuality or the production by him of films of such acts. Lastly, the national authorities are precluded from finding that the applicant’s statements lack credibility merely because the applicant did not rely on his declared sexual orientation on the first occasion he was given to set out the ground for persecution.

The third case, **F**,³⁹ involved questions regarding the psychological tests to which asylum seekers can be subjected. However, this time it involved the interpretation of Directive 2011/95,⁴⁰ which is the successor of Directive 2004/83. In the F case, a Nigerian man sought asylum in Hungary due to feared persecution based on his sexual orientation in his country of origin. He was subjected to psychological tests in order to determine his homosexuality. Based on those tests, the expert concluded

37 Article 10(1)(d) of Directive 2004/83 stipulates: ‘A group shall be considered to form a particular social group where in particular: –members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and—that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society; depending on the circumstances in the country of origin, a particular social group might include a group based on a common characteristic of sexual orientation. Sexual orientation cannot be understood to include acts considered to be criminal in accordance with national law of the Member States: gender-related aspects might be considered, without themselves alone creating a presumption for the applicability of this Article.’

38 C-148-150/13 A, B and C EU:C:2014:2406

39 C-473/16 F EU:C:2018:36

40 Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted [2011] OJ L 337/9

ed that it was not possible to confirm F's assertion relating to his sexual orientation. As a result of this conclusion, the Hungarian authorities rejected his application for asylum. F brought an action against the Hungarian authorities, contending that the psychological tests he had undergone seriously prejudiced his fundamental rights and did not make it possible to assess the plausibility of his sexual orientation.

Interpreting Directive 2011/95, the ECJ provided a number of clarifications. Firstly, it pointed out that when the EU Member States assess whether an applicant has a well-founded fear of being persecuted, it is immaterial whether he actually possesses the characteristic linked to the membership of a particular social group that attracts the persecution, provided that such a characteristic is attributed to him by the actor of persecution. The court then explained that the factors national authorities should take into account, which are set out in Directive 2011/95, do not restrict the means available to those authorities and, specifically, do not exclude the use of expert reports in the context of the process of assessing the facts and circumstances in order to determine more accurately the applicant's actual need for international protection. The court also pointed out that although EU Member State governments can use experts' reports as part of an asylum seeker's credibility assessment, they cannot do so in a manner that violates the fundamental rights guaranteed by the EUCFR and they cannot base a decision solely on the conclusions of such a report or be considered bound by it. Specifically, the ECJ stressed that the use of psychological tests to determine the sexual orientation of an asylum seeker amounts to a disproportionate interference in the asylum seeker's private life, since, although the performance of the psychological tests is formally conditional upon the consent of the person concerned, the consent is not necessarily given freely, being *de facto* imposed under the pressure of the circumstances in which applicants for international protection find themselves. It is disproportionate because:

- a) the reliability of such an expert's report has been vigorously contested;
- b) the seriousness of the interference with the right to privacy it constitutes cannot be regarded as proportionate to the benefit that it may possibly represent for the assessment of the facts and circumstances, as
 1. the interference with the applicant's private life is, in view of its nature and subject matter, particularly serious; and
 2. an expert's report cannot be considered essential for the purpose of confirming the statements of an applicant for international protection relating to his sexual orientation in order to adjudicate on an application for international protection based on a fear of persecution on the grounds of that orientation.

Obviously, all three of the above cases had facts which involved men with a homosexual or bisexual sexual orientation. However, it is clear that the standards set out by the above directives—as these have been interpreted by the ECJ—with which EU Member States must comply when examining asylum applications are equally applicable in cases involving lesbian asylum seekers and, thus, the latter can clearly benefit from the above instruments and rulings.

2. Rainbow families

Family law is an area that falls within the competence of the EU Member States and, thus, cannot be regulated by EU law (Lenaerts, 2011, 1355). Specifically, it is up to each EU Member State to determine whether same-sex couples can marry in its territory and whether they can be jointly recognised as the parents of their children. However, as the ECJ clarified in a number of rulings, even in areas where EU Member States maintain their sovereignty and have the full power to legislate, they must still exercise their powers in a

manner that is compatible with EU law.⁴¹ Hence, if there is a clash between national measures taken with regards to matters that fall within national competence and EU laws and policies, EU law must prevail.⁴²

If a same-sex couple who has contracted a marriage in an EU Member State cannot move to another EU Member State because the latter does not recognise them as a married couple and thus refuses to extend to them the rights normally granted to same-sex couples, this can lead to an obstacle to the free movement rights they derive from EU law. Put differently, the host EU Member State's legislative choice not to recognise same-sex marriages contracted in other EU Member States clashes with the EU free movement provisions as set out in the TFEU (Tryfonidou, 2015).

The ECJ was confronted with such a clash in the recent **Coman** case,⁴³ which involved a Romanian national who married a US national in Belgium and wished to return to Romania where he would be accompanied by his same-sex spouse. Mr Coman sought to rely on Directive 2004/38⁴⁴ and Article 21 TFEU,⁴⁵ which provide the right to Union citizens to move and reside in the territory of another EU Member State. Directive 2004/38 in particular provides that a Union citizen can be accompanied by his or her spouse in the territory of the EU Member State to which he or she moves, and that the spouse is entitled, through EU law, to reside in the host EU Member State.⁴⁶ The question that was referred to the ECJ was, therefore, whether the term spouse in this context

includes a same-sex spouse. The court replied affirmatively, explaining that Union citizens who married their same-sex spouse in an EU Member State and then wish to move to another EU Member State that has not opened marriage to same-sex couples in its territory can rely on EU law in order to require the latter member state to recognise the couple as spouses for the purposes of EU family reunification, that is the spouse seeks to rely on EU law in order to acquire the right to reside in the territory of the EU Member State to which the couple moves (Tryfonidou, 2019).

Although the couple that was involved in the case was a same-sex couple comprised of two men, the same principles can, of course, be applicable in cases involving a same-sex couple comprised of two women. Hence, following *Coman*, lesbian women* who are EU nationals—and who, as such, enjoy EU free movement rights—and who have entered into a marriage with their female partner in an EU Member State can be certain that they can exercise their free movement rights by moving and residing in the territory of another EU Member State and that when doing so their spouse can join or accompany them in that EU Member State. Of course, the *Coman* case did not clarify whether the marriage will be recognised for other legal purposes (that is the court only adjudicated on the residence right of the spouse), nor has there been a clarification to date as to whether EU law requires EU Member States to recognise the legal parent-child relationship between a child and both parents when the latter are of the same sex.

41 Parris (above n. 31) para. 59; Maruko (above n. 23) para. 59.

42 This is the principle of supremacy of EU law, which was established in Case 6/64 *Costa v. ENEL* ECLI:EU:C:1964:66.

43 Case C-673/16 *Coman* ECLI:EU:C:2018:385

44 Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC [2004] OJ L 158/77.

45 Article 21(1) TFEU stipulates: 'Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect.'

46 Article 2(2)(a) of Directive 2004/38 (above n. 43) read together with Article 7(2) of Directive 2004/38

3.3 Conclusion—summary of the chapter

In this chapter, we noted that although the EU Treaties have never made direct reference to LGB rights, certain treaty provisions that have been introduced through the years have played an important role in the development of an EU legal framework, which has contributed to the protection of LGB persons against discrimination. One such provision is Article 19 TFEU, which gives the EU competence to make legislation that prohibits discrimination based on, *inter alia*, sexual orientation. This has served as the legal basis for the first and—to date—only piece of secondary EU legislation that prohibits, *inter alia*, discrimination based on sexual orientation: Directive 2000/78. This directive has a limited material scope, as it only applies in the area of employment. However, since 2009, when the EUCFR became legally binding, Article 21 EUCFR can be relied on to challenge discrimination based on sexual orientation in all areas of human life, that is not only employment, provided that the situation falls within the scope of EU law. Moreover, in 2009, Article 10 TFEU was also introduced. This article is a mainstreaming provision; it requires EU institutions to ensure that all EU policies should be free from discrimination based on, *inter alia*, sexual orientation. To date, however, it is not clear if EU institutions have taken this provision into account at all. It should be highlighted that none of the above provisions/instruments are specifically applicable to lesbian women* only; instead, lesbians benefit from these provisions/instruments as persons who have a minority sexual orientation.

The above instruments and provisions have been interpreted in a number of ECJ rulings. The court's approach, at first, was rather disappointing, as the court appeared unwilling to grant LGB persons protection against discrimination (see *Grant and D and Sweden v. Council*). Matters, however, subsequently improved when the court was asked—for the first time—to interpret Directive 2000/78. As a result of the *Maruko*, *Römer* and *Hay* trilogy of cases, LGB persons who are in a registered partnership in an EU Member State that has not opened marriage to same-sex couples can require their employers to extend to them and their registered partners the same treatment that is afforded to (opposite-sex) married couples with regard to matters for which the two statuses are treated as

equivalent under national law. Moreover, as a result of *Asociația Accept* and, more recently, *NH*, it has become clear that in cases involving homophobic speech in the area of employment, an NGO can bring an action under Directive 2000/78. The NGO does not have to join an identifiable claimant. Moreover, the NGO does not have to demonstrate that there is a specific, identifiable victim who has been precluded from applying to work for the specific employer as a result of the contested statements. However, the ECJ appears to have taken a disappointingly restrictive stance towards the interpretation of the directive in the *Parris* case. In this case, the court rejected a claim that there was discrimination on the combined grounds of sexual orientation and age, or individually on each ground. The *Parris* case involved an employer's pension scheme failing to take into account the different position, under the law, of LGB persons above a certain age from everyone else regarding their ability to formalise their relationship. As a result, the pension scheme treated them—incorrectly—in the same manner as everyone else with regards to survivors' pensions. Nonetheless, in three cases (*X, Y, Z*; *A, B, C*; and *F*), the ECJ also offered generous interpretations of EU secondary legislation, which sets out the standards with which EU Member States must comply when examining asylum applications in cases involving LGB asylum seekers who claim that they cannot return to their country of origin due to feared persecution based on their sexual orientation. Furthermore, in the recent landmark *Coman* case, the ECJ ruled that a Union citizen who moves to an EU Member State to settle, thereby exercising EU free movement rights, can require the Member State to which he/she moves to grant him/her family reunification rights and, thus, to automatically admit to its territory and grant rights of residence to his/her same-sex spouse who is a non-EU national.

Accordingly, especially in recent years, steps have been taken to protect LGB persons against discrimination based on their sexual orientation under EU law. However, there is still a long road ahead to achieve substantive equality between LGB persons and their heterosexual peers under EU law.

4

Advancing liveable lives for lesbians in Europe

4.1 Family and parenthood

Rainbow families are families with at least one parent who identifies as LGBTQ. Policymakers and health care professionals are often guided by the belief that LGBTQ persons are not interested in parenthood, although studies highlight the contrary (Štambuk and Tadić Vujčić, 2019). The majority of those families include lesbian mothers.⁴⁷ For decades, scholarly literature has responded to the politicised question of whether growing up in a family where parents do not adhere to the heterosexual norm has a negative impact on the development and well-being of children (Baiocco et al., 2015; Schumm, 2016; Kuvalanka et al., 2014). The moral debate about same-gender parenting and family formation is often justified through debatable psychological models, including psychoanalytical theory and developmental psychology (Brewaeys, Dufour and Kentenich, 2005). While this gives these debates a supposed scientific undertone, it is important to note that a number of experts, especially critical and feminist psychologists, have problematised many of these models as partial and androcentric.

However, a focus on the alleged deficits of children growing up in LGBTQ families guides both public and policy debates around LGBTQ parenting (Costa, Pereira and Leal, 2019). In a move to focus on the competencies developed when growing up with same-gender parents, a Dutch study noted that children with two mothers

demonstrated stronger civic competencies. In this quantitative study, children with lesbian parents scored particularly high in acting democratically, dealing with conflicts and dealing with social, ethnic and religious differences (Bos et al., 2016). The authors, therefore, argued that it would be beneficial to change the focus in the moral debate surrounding rainbow families. Instead of focusing on deficits and alleged deficits, the experience of growing up with same-gender parents could be described as a resource. Further research could focus on how children from these families develop an early understanding of societal inequalities, critical thinking skills and democratic competencies.

In light of these political and societal debates, family equality associations in Europe and across the world have intensified their educational activities in their communities and towards wider society. These organisations' increasingly professionalised activism mirrors the urgency brought about by the increasing number of rainbow families and the evident political failures of governments, state institutions and societal actors to recognise and respond to the needs of these families. The Network of European LGBTIQ* Families Associations (NELFA) (2019) reported that rainbow families in Europe are subjected to a lack of benefits including tax credits, inheritance, access to health care and parental leave. Children have also been

47 This is based on a personal conversation with a family equality activist who consults rainbow families in Germany.

reported to sometimes remain stateless. There are difficulties in travelling or moving freely internationally (Tryfonidou, 2019b). In school settings, lesbian parents often face problems when, for example, the social mother⁴⁸ is not allowed to sign documents.

Emerging academic research on rainbow families in Europe has identified various issues beyond the normative question of whether LGBTQ parents should be allowed to parent children. The small number of qualitative studies focusing on the lived experience of rainbow families illustrate that the situations and challenges faced by rainbow families are highly diverse and situated. The themes range from LGBTQ families' sociocultural invisibility (Reed, 2018) to their navigation of everyday spaces and heteronormative institutions (Gabb, 2005; Carri, 2019). Socio-economic inequalities have also been identified to inform the experience of lesbian parenthood (Gabb, 2004), as they tie into questions of family formation, access to parental rights and everyday challenges. However, socio-economic inequalities remain largely unaccounted for in Continental European family equality research.

Family formation

Lesbian family formation is inherently heterogeneous and rooted in socio-economic means as well as normative discourses around lesbian parenthood (Takács, 2018; Carri, 2019). Studies from the US illustrate that lesbian family formation reproduces intersectional inequalities (for a recent analysis, see, for example, Karpman, Ruppel and Torres, 2018). Qualitative research shows that lesbian mothers have to navigate a complex field of questions and concerns. Although the dominant perception of lesbian motherhood is focused on couples who conceive through assisted reproductive technology (ART) or private sperm donation, many lesbian mothers have children from previous heterosexual relationships and form recomposed rainbow families. The means through which same-gender couples wish to form a family are diverse as well. While a study from Croatia indicates that adoption and foster care are the

preferred manner of family formation (Štambuk et al., 2019), a study from Hungary states that ART is the preferred means (Takács, 2018).

There is an inequality of access to fertility treatment in Europe, and ART is not equally available to lesbian couples in the EU (Leibetseder and Griffin, 2018; Gunnarsson Payne, 2019). However, there appears to be a rising demand for ART for LGBTQ persons (Leibetseder, 2018). Lesbians who wish access to fertility treatment engage in what is often dubbed as cross-border fertility travel in order to seek treatment elsewhere (Shenfield et al., 2010). Upon publication of the latest Rainbow Europe Index (ILGA-Europe 2019), only eleven EU Member States offered insemination to lesbian couples. However, this practice is often surrounded by legal challenges and difficulties, especially in relation to obtaining a birth certificate, citizenship and parenthood recognition (Leibetseder and Griffin, 2018). Seeking ART in a country other than the country of residence is, therefore, tied to high financial costs and bureaucratic difficulties (ibid.), which are all deeply rooted in socio-economic factors.

Lesbians without the financial means often have to resort to private donors, which involves health risks for the birth mother and legal risks for the social mother. However, in a small qualitative study with lesbian mothers in Berlin, the choice of a private donor was not only informed by a lack of financial means (Carri, 2019); many middle-class mothers chose a private donor due to concerns that children could suffer if they do not know where they come from. This idea bases on a complex web of discourses. In the case of lesbian parenthood, the discourses include biologist narratives that give primacy to genetics, that is heteronormative ideas about parenthood, such as the notion that an absence of opposite-gendered parents leads to psychological problems. Carri (2019) noted, however, that many mothers had deconstructed these discourses as normative and problematic once the children were born.

In Germany, the way the child has been conceived has a significant impact on the process of co-parent recognition. In case of a private dona-

48 Social mothers are mothers who are not legally recognised as mothers because they are not the birth mothers.

tion (Bechermethode), the law does not per se provide the sperm donor with the rights of a legal parent. The recognition of fatherhood requires the consent of the mother or recognition by the court. However, according to some court decisions, the private donor has, as the biological parent, still to be part of the adoption process and can stop it by refusing to give his consent. An anonymous donation, however, is treated differently (Schumann, 2014). Since 2018, in cases of anonymous donation through a sperm bank, the donor cannot be determined as a legal parent and is, therefore, also due to the anonymity, not part of the adoption process. The child, however, keeps its right to know about its biological origins. The German case thus illustrates the problems that arise when lesbian couples cannot access anonymous donations and fertility treatment due to prejudices, unclear legal regulations and high financial costs. However, reproductive inequalities are evident not only in access to ART but also in maternity health care.

Maternity health care services across Europe increasingly encounter lesbian mothers (Costa, Pereira and Leal, 2019). Research shows that sexual orientation informs how health care during pregnancies is experienced. Maternity care practitioners have been identified to lack specific knowledge in providing inclusive care services for lesbian mothers. Although lesbian expectant parents experience the same challenges as heterosexual new parents, studies from the US show that lesbian mothers are often fearful of disclosing their sexual orientation (Wojnar, 2007). More recently, a study from the UK found that social mothers can feel excluded by service providers that often work with heteronormative service structures (Cherguit et al., 2013). In a specific study on lesbian experiences of miscarriage in North America, it was further noted that midwifery practitioners need to be aware of the specific complexities of lesbian family formation and of the needs of the social mother (Wojnar, 2007). The issues faced by the social mother become particularly pertinent when it comes to the legal recognition of parenthood.

Following ILGA-Europe's 2019 Rainbow Index, only seven EU Member States automatically recognise lesbian co-mothers as the legal parent of a child born into a marriage. In six member states, lesbian social mothers have to go through a

process of co-parent adoption. The co-parent adoption process, although often hailed as progress in public discourse, has proven particularly problematic in its implementation. In Germany, for example, same-sex marriage has not been tied to the law of descent. Therefore, lesbian mothers have to undergo a stepchild adoption process, which has been identified as a source of stress and discrimination. In a study about how lesbian mothers experience the process in Berlin, mothers felt vulnerable to arbitrary decision-making by authorities, the donor's role in the law of descent, which leaves lesbian mothers vulnerable to blackmail by donors, and the invasive nature of the process itself (Carri, 2019). The arbitrariness of the process and having their families' lives under scrutiny caused stress over long periods of time.

There is a lack of qualitative data about lesbian mothers' experiences with both co-parent and joint adoption processes across the EU. In early 2019, 13 EU Member States had enabled joint adoption (ILGA-Europe 2019). However, there is no data available about the number of same-gender adoptive families. A recent qualitative study on the experiences of lesbian and gay adoptive parents in Belgium, Spain and France has illustrated that heteronormativity affects adoption processes on various levels (Messina and D'Amore, 2018). The study showed that normative understandings of family negatively affect lesbian and gay adoptive parents. The belief that one is an illegitimate family or that one creates obstacles for the children affects many adoptive parents. Institutional obstacles that were identified included discouragement by adoption agencies, the decision-making power of birth families who choose heterosexual couples and the inability to go through the process as a couple. In cases where only one parent is able to adopt legally, the social parents find themselves in a difficult situation of invisibility. Earlier studies from the UK also pointed to prejudice towards homosexual couples in the adoption process (Montero, 2014).

Being a parent

Media and cultural representations of LGBTQ families have been criticised as lacking in diversity (Reed, 2018). This representational invisibility has been problematised for creating a dichotomy

between valuable and important versus insignificant and, therefore, unimportant families (ibid.). The invisibility of rainbow families reproduces heteronormative discourses and practices around the institution of the family. It has further been noted that lesbian mothers are rendered invisible in debates about motherhood (Gabb, 2005). The invisibility, therefore, not only normalises heterosexuality as the normative basis of family but also makes lesbian mothers vulnerable to marginalisation.

Available research on the experiences of lesbian mothers in Europe has illustrated that rejection, abuse or voyeurism is a reality in public family spaces, including schools, daycare or the playground (Gabb, 2005). Local and national LGBTQ family networks and organisations thus present a means to navigate such spaces or to create rainbow family spaces that feel safe for the families and their children. This can include regular meet-ups or group holidays. Formal and informal networks thus play an important role in the lives of LGBTQ families. Nevertheless, lesbian mothers still have to navigate mainstream family spaces. Furthermore, many rainbow families are not connected to LGBTQ family networks and are thus alone when they face heterosexism in their daily lives.

It has been argued that as long as negative stereotypes persist in public and pedagogical discourse, children and parents from rainbow families will be subjected to negative stereotypes in school and daycare facilities. Emerging research has identified that early childcare settings are rooted in heteronormative ideas about families (Kubandt, Monse and Sabla, 2019). There have been reported cases where same-gender parents were denied access to daycare facilities for small children. Moreover, educators are often guided by their personal beliefs that remain unchallenged during their education and professional practice (ibid.). In research on school settings, children have demonstrated awareness about the discrimination their parents face. Children also make a note of their family's devaluation through teachers' and educators' unreflected reproduction of biological kinship and family models (Streib-Brzič and Quadflieg, 2011).

While public discourse on children with LGBTQ parents focuses on children being bullied by other children, research indicates that the root problem is cultural norms around the family and how these norms are reproduced in educational settings (Sobočan and Streib-Brzič, 2013). In a comparative study from Germany, Sweden and Slovenia (Streib-Brzič and Quadflieg 2011), LGBTQ parents have been found to select schools carefully, interrogating how open the relevant institution is to accommodating a non-normative family. Parents have also problematised the inability of teachers and school management personnel to critically confront their own heteronormative ideas of family. This includes the failure to include representational diversity of families in the classroom and curriculum.

Road ahead

Lesbian mothers face a diverse set of issues that range from hostility by service providers and society to difficulties accessing their legal rights as parents. On a legal level, NGOs and scholarship have pointed to the detrimental effects that a lack of parental rights have on lesbian families. These include the lack of access to ART, the inability to adopt as a couple, the lack of co-parent recognition, the discriminatory process of co-parent adoption and the lack of family benefits. In addition to the restrictive legal situation, rainbow families often do not receive adequate support from public institutions. LGBTQ organisations and networks provide rainbow families with the social and legal support they do not obtain from public institutions. However, these organisations and networks generally lack public funding and have to rely on private donations.

Studies indicate that there is a lack of awareness amongst service providers and civil servants. Measures to raise awareness have been identified to be fruitful when they are sensitive to the needs of different target groups and when they are designed with the goal of long-term transformation (Štambuk and Tadić Vujčić, 2019; Porter and Krinsky, 2014). Measures to increase awareness amongst pedagogical professionals should include

education about the particular situation of LGBTIQ⁴⁹ families through professional formation and further training. Educators, teachers, social workers and health care professionals should be encouraged to critically reflect upon their normative ideas around gender and family (Kubandt, Monse and Sabla, 2019; Baiocco et al., 2019). Furthermore, diverse family forms should be included in school curricula and pedagogical material (Baiocco et al., 2019).

Maternity health care has also been identified as a field that lacks adequate resources and knowledge. Evidence-based suggestions include educational activities that inform maternity health professionals about the complexity of lesbian family formation. This would enable the creation of more inclusive services for lesbian birth mothers and co-mothers (Cherguit et al., 2013; Wojnar, 2007). Further suggestions include the explicit referencing of lesbian families in maternity documentation.

Across Europe, rainbow families would benefit from social and cultural visibility that mirrors their diverse lived realities. Projects that have worked towards raising public awareness about the issues of LGBTQ families have included advocacy and media training for LGBTQ parents⁵⁰ organised by NELFA, as well as initiatives for visibility, such as the International Family Equality Day (IFED). Since 2011, IFED has been helping national and local family networks organise events around family diversity in the first week of May. The events aim to bring rainbow families together and to create visibility. In Switzerland, the Swiss Rainbow Families Association produces information brochures in collaboration with cantonal governments. The brochures are aimed at civil servants and pedagogical professionals. They cover a basic introduction to the situation of LGBTQ families, further literature, LGBT-inclusive children's books and specialist contacts.

Despite the growing number of LGBTQ families across Europe, there is a lack of academic research into these families and their experiences. Therefore, there is only a limited understanding of how lesbian parenthood is experienced and informed by intersectional inequalities. Moreover, there is a need to study the experiences of lesbian and bisexual mothers who have children from previous, often heterosexual, relationships in order to understand their specific situation and needs, for example, surrounding custody decisions. The alarming knowledge we have about how same-gender couples experience adoption and second-parent adoption also calls for more research.

Advocacy groups, networks and NGOs that focus on LGBTQ families in Europe have accumulated considerable expertise through a range of activities. However, these organisations often lack funding, resources and the capacity to collect comprehensive data about the needs of the families. Therefore, information about the experiences of lesbian parents remains mostly anecdotal. However, considering the rich knowledge of rainbow family organisations and networks, academic research should foster those resources through participatory research designs.

An example of such a research project is 'Capacity Building for Rainbow Families in Switzerland and Beyond'.⁵¹ Based in the Swiss canton of Valais and funded by the Swiss National Science Foundation, the project aims to develop a community research tool for rainbow families that facilitates the accumulation of data and collective resources. These resources include knowledge about challenges and a language to speak about them, an understanding of diversity amongst rainbow families, strategic relationships to foster social and political change, shared political goals, cohesion and a support network. Methodologically, the project is rooted in community-based participatory action research and fosters close collaborations with the

49 LGBTIQ stands for lesbian, gay, bisexual and transgender, intersex and queer. Trans* and inter* are often written with an asterisk to mark the multiple experiences and identities that fall into these categories.

50 An example is the Grundtvig learning partnership 'Being an LGBT parent as an experience of democracy and active citizenship'.

51 The author of this report is the formal co-investigator on the project together with Dr Christiane Carri from the University of Applied Sciences Western Switzerland. The project duration is twelve months. 13 parents are part of the project's steering group.

Swiss Rainbow Families Association and two local LGBTQ organisations, Alpagai and QueerWallis. The project is run by a steering group of community members and supported by two academic coordinators who facilitate all research activities.

In contrast to traditional research, this project empowers community participants to develop individual and collective resources that are sustainable.

4.2 Socio-economic inequalities

Although emerging research shows that both social class and poverty drivers appear to affect lesbian lives in a specific manner, the issue is barely visible in activism, research and policy debates. There is little research on the connection between poverty and sexual orientation in Europe (Uhrig, 2015). This lack of research about poverty and queer lives can, on the one hand, be accounted to poverty research's shortcomings in the areas of sexual orientation, gender identity and structural racism. On the other hand, it can also be linked to the liberal rights paradigm that dominates LGBT politics and research (Marušić and Bilić, 2016). As a result, there is a lack of knowledge and capacity around LGBT lives and poverty in Europe.

Lesbian and gay subjects are usually represented as affluent consumers in a pink market economy that is associated with nightlife and travel. In Western Europe, this stereotype is further mobilised at corporate-backed pride marches and festivals where LGBT subjects are hailed as potential customers. In a number of post-socialist countries, LGBT organisations have been associated with foreign investment, a perception which has contributed to the stereotype of gay and lesbian affluence (Marušić and Bilić, 2016). Scholars from various disciplines note that the stereotype of gay and lesbian affluence creates a distorted perception and makes it difficult to research the intersection of poverty and sexual orientation. The stereotype also has a negative effect on policymaking and the creation of LGBT-friendly welfare regimes, services and inclusive community spaces (Marušić and Bilić, 2016; Taylor, 2007b). A study based on data from the Scottish Health Survey, for example, found that there is a disproportionately high concentration of non-heterosexual households in the most deprived areas. Sociologists working on LGBT lives further agree that class informs how an

individual can claim liberal rights and equal lives (McDermott, 2011; Taylor, 2007a).

The limited quantitative studies available, for example from the UK, describe the material disadvantage faced by lesbian women* as being linked to their status as women rather than as lesbians (Uhrig, 2015). However, this is linked to the failure to include non-heterosexual life realities into statistical indicators of poverty. European poverty research has been slow to include gender as a viable dimension of analysis (Daly, 1992). Although gender-sensitive poverty research has grown and has advanced the understanding of the experience of and vulnerability to poverty as fundamentally gendered, most analyses remain guided by a heteronormative lens (Bastos et al., 2009; Addabbo et al., 2015).

However, there are a number of qualitative sociological studies from the British context that illustrate the specific challenges faced by poor lesbians. These studies deal with young lesbians' experiences of school and educational choices (Taylor, 2007a; McDermott, 2011) and the lack of access to leisure spaces and the social scene (Taylor, 2007b). There are also engagements with non-heterosexuality and homelessness (Marušić and Bilić, 2016), old-age poverty among lesbians, and transsexual experiences of poverty (Fuchs et al., 2012). Within the field of poverty research, poverty drivers in Europe have been related to household structure, health and well-being, education, unemployment, homelessness and household wealth (Uhrig, 2015).

In terms of household composition, there is a lack of data about lesbian, trans* and intersex persons and household composition. LGBTI women* with dependents, such as children, long-term sick

people, disabled persons or retirees, are at greater risk of poverty (Uhrig, 2014). In contrast to the US, where studies have indicated that lesbian parents are disadvantaged compared to gay male parents, academic research in Europe does not allow for such comparisons to be made. Also lacking is an exploration of the financial risks lesbian mothers are exposed to and how this affects the welfare of rainbow families. There is an understanding that women who take care of their children single-handedly are at greater risk of experiencing poverty (Uhrig, 2014); this includes lesbian and bisexual mothers.

Homophobia and heteronormativity can have a disruptive effect on educational attainment, which can negatively affect the ability to earn a sustainable income (Uhrig, 2014). There is evidence that young lesbians' school careers are often disrupted by bullying, which affects school performance and can, thus, increase the risk of experiencing poverty later in life (Uhrig, 2015). In the British context, studies on young lesbians' experiences at school illustrate that particularly working-class lesbians face low expectations in educational settings (Taylor, 2007a; McDermott, 2011). These studies illustrate how low expectations in combination with a lack of protection has an exclusionary effect on working-class sexual minority pupils. Informants also left school because employment meant that they could participate in the pink economy and through consumption gain access to scene spaces and a gay identity—which is difficult to attain in school settings where positive representations of homosexuality are scarce.

Homelessness

Research on homelessness is rarely taken into account in sexual orientation (Matthews, Poyner and Kjellgren, 2019). As with poverty, there is a lack of research on lesbian homelessness. However, many of the issues identified in gender-sensitive research will also inform lesbian homelessness. Gender-related reasons for women's homelessness include partner violence (Matthews, Poyner and Kjellgren, 2019). Homeless women* have been identified to be particularly vulnerable to domestic and sexual violence (Busch-

Geertsema et al., 2010). Feminist research into the experience of homelessness stresses the importance of the personal capacities and agency of homeless women. In a longitudinal study of women's experiences of homelessness in Ireland, service settings were experienced as disciplinary spaces where their visibility as women exposed them to control (Sheridan, 2017).

Scholars have also argued that the predominant belief that gay and lesbian subjects are economically privileged leads to the further marginalisation of those without secure and permanent housing. This also leads to a lack of specialist services and awareness amongst social workers (Marušić and Bilić, 2016; Matthews, Poyner and Kjellgren, 2019). This can make staying at hostel accommodation difficult for LGBT service users (Matthews, Poyner and Kjellgren, 2019). In the UK, it has been argued that LGBT youth are disproportionately affected by homelessness (Matthews, Poyner and Kjellgren, 2019; Uhrig, 2014). Studies from Scotland estimate that 25–40 per cent of homeless youths are LGBT. This has mainly been linked to familial rejection (Matthews, Poyner and Kjellgren, 2019); studies from the US have also demonstrated that young people are drawn to urban areas with a larger LGBT community.

Road ahead

Policy instruments for social inclusion vary amongst EU Member States, and strategies to tackle poverty and homelessness vary greatly (Busch-Geertsema et al., 2010). However, there is an understanding that existing welfare policies fail to take into account the specific needs related to gender and sexual orientation (Busch-Geertsema et al., 2010; Matthews, Poyner and Kjellgren, 2019; Marušić and Bilić, 2016; Sheridan, 2017).

Although the EU has no direct capabilities in the service provision for homeless persons, indicators and criteria have been developed at EU level to measure the quality of service provision (Busch-Geertsema et al., 2010). National homelessness prevention strategies often fail to engage with risk factors faced by women or LGBT persons (Sheridan, 2017). Moreover, many NGOs providing ser-

vices for homeless people are faith-based (ibid.), which poses particular challenges for LGBTI service users. Research suggests that welfare services for homeless persons do not adequately cater for women and LGBT persons (Busch-Geertsema et al., 2010; Matthews, Poyner and Kjellgren, 2019; Marušić and Bilić, 2016). NGO and academic research suggests that there is an urgent need to train service providers in the area of gender-sensitivity (Sheridan, 2017). Research on LGBT

homelessness suggests that such training approaches have to include non-heterosexual and trans* needs. The European Commission (EC) strategic policy responses—the European Pillars of Social Rights, the Active Inclusion Strategy, the Social Investment Package—and the European Social Fund show little awareness in relation to the needs of lesbian women* or LGBT persons in general.

4.3 Race, racism and intersectionality

Policy debates have struggled to include the experiences of lesbians who are subjected to racism. Experts have argued that LGBT⁵² equality policies and services are largely rooted in a single-axis approach to discrimination. Categories of inequality, such as race, ability and class, are often presented as something queer individuals additionally have to deal with outside of their queer identity. Over the past decade, academics from the social sciences and humanities across Europe have responded to the lack of intersectional approaches in LGBT activism. These academics have critically engaged with entanglements between certain LGBT politics and contemporary racism (Boulila, 2019c; Ahmed, 2011). They have also drawn attention to how racism operates against queer people of colour (Haritaworn, 2010, 2015; El-Tayeb, 2012; Bacchetta, El-Tayeb and Haritaworn, 2015) and to the limits of a single-issue approach to discrimination (Castro Varela, 2012; Jivraj and de Jong, 2011).

Scholars have argued that in light of the recent advances that have been made in the realm of gender and sexual equalities, homophobia has increasingly been outlined as a problem of ethnic minorities (Haritaworn, 2010; Jivraj and de Jong 2011; Boulila, 2019c). This problematic racialisation of homophobia leaves lesbian people of colour in a particularly vulnerable position. Both state actors and many large LGBT organisations have polarised the debate instead of advancing intersectional approaches to gender and sexu-

al equalities. Although this issue has been raised by community actors and scholars, anti-racism has not found its way into European LGBT policy debates. This can be explained with the general, weak understanding of racism in Europe. This weak understanding includes the failure to understand racism as the systemic oppression of people who are racialised, and the exclusion from public debate of the category race, a violent classifying system that legitimises racism.

Lack of adequate terminology and race literacy

In anti-racist and feminist social movements, the term lesbian of colour is a variant of the term woman of colour. The latter refers to women who are racialised; these women are constructed as other on the lines of race, and with that subjected to racism. The term was self-chosen by women in the feminist and lesbian movement in the US during the 1970s. It served to specifically identify how gendered violence and racism affect women by rendering visible gender and race as intersecting social constructions with violent effects. The terms woman of colour, lesbian of colour and queers of colour are increasingly used in Europe, mainly in anti-racist activism and academia. These terms are deemed to provide a language for women and LGBTQ persons who are subjected to racism and who combat single-axis approaches

52 Experts have suggested that in contrast to LGBT activism, queer activism has been more attuned to intersectionality; hence the acronym LGBT is being used here instead of LGBTQ.

to discrimination. In recent years, the acronym POC (people of colour) has been supplemented by BPOC (black and people of colour) to specifically highlight anti-black racism.

The term minority lesbian, which is a version of the term minority woman, has appeared in both anti-racist and gender equality policy language. The question of terminology is far from symbolic. Scholars and activists working on gender and racism have continuously noted that definitions are loaded with meaning and political possibilities. The term minority lesbian, for example, suggests that we speak about a minority within a minority instead of a systemic interlocking of oppression. In that respect, it is important to note that national and EU policy language presently lacks the nuanced undertones to deliver justice to lesbian and LGBTQ persons who are subjected to racism by suggesting that it is a side issue. However, the question of how racism should be dealt with in LGBTQ politics is far from irrelevant.

The difficulty in dealing with racism in European LGBT politics is tied to broader problems surrounding how racism is dealt with politically. Europe is guided by what has been dubbed as weak anti-racism, which academically is known as anti-racialism (Lentin, 2004; Goldberg, 2009). Scholars who study contemporary racism have identified anti-racialism as debilitating (Lentin, 2011; Roig, 2016; Beaman and Petts, 2020; Boulila, 2019a). The results of this approach include the reduction of racism to interpersonal events rather than products of structural inequalities (Boulila, 2019a), the denial or belittling of racism through comparison to what is deemed the real racism of the past (Lentin, 2016), suspicion towards everyday experiences of Black people and people of colour in Europe (Beaman, 2019; Lentin 2004), outlining racism as exceptional (Lentin, 2016) and the lack of a nuanced terminology to speak about racism in the public sphere.

The UNESCO statements about issues of race that were issued in the 1950s and 1960s as a response to the Holocaust, shaped anti-racialism, the dominant approach to anti-racism in European politics

(Lentin, 2004, 2008). The statements can be understood as an attempt to cease the harm of scientific racism, as the statements proposed a shift in the political vocabulary away from the term race to the term culture (Lentin, 2004) or ethnicity (Boonzaier, 1988). Academics have argued that instead of exposing race as a social construction and violent means of classifying people, removing the term race from political debates about racism has led to a lack of vocabulary. This has debilitated the ability to analyse and fight the systemic character of racism in Europe (Lentin, 2011; Goldberg, 2006).

The idea of race has historically relied not only on naturalist claims as suggested by dominant understandings but also on discourses of culture, religion and progress, whereby Europe served as the neutral comparator (Goldberg, 2002; Lentin, 2004, 2008). The contemporary racialisation of Muslims, for example, has been identified to mainly rely on ideas about culture and religion (Lentin and Titley, 2011). Since 9/11, Muslims in Europe have been outlined around notions of cultural backwardness and radicalism, especially in questions relating to gender and sexuality.

In the social sciences and amongst a number of activists, the term race has therefore been re-introduced into the European debate about racism to name and understand systemic racism and to counter the idea that racism originates from a small number of extremist individuals. The term race should, however, not be misunderstood as an affirmation of scientific racism. On the contrary, in anti-racist scholarship and activism, the term refers to a social construction and a form of systemic oppression that has a distinctively European history and, with that, consequences for our present. The discourse of Muslim homophobia also illustrates how systemic racism can materialise in debates around gender and sexual equalities (Boulila, 2019). Since LGBT politics can be complicit in racist discourses and politics, lesbian equality approaches should therefore be taken into account in race. This is particularly important in order to cater for the needs of lesbians of colour who are subjected to racism, including racism in the LGBT community.

The racial undertone of homophobia debates

Over the past two decades, many LGBT organisations and European publics have advanced the idea that a number of ethnic groups present a particular threat to homosexual subjects. In these logics, queer people of colour are often identified as particularly vulnerable to homophobia. In policy debates, this vulnerability is often explained through their non-Western cultural background and the danger presented by their families and communities.⁵³ This predominant impression is problematic, as it falls into a common racialising trope that particularly surrounds Muslims in Europe and problematises them as exceptionally homophobic.

In Western European countries, homophobia has increasingly been associated with Muslim minorities (Bracke, 2012; El-Tayeb, 2011, 2012; Haritaworn, 2010). Although the invocation of Muslim homophobes has strongly been contested, studies from across Europe have shown that European governments, LGBT organisations, activists and scholars have been complicit in the circulation of these harmful stereotypes (El-Tayeb, 2012; Haritaworn, 2010; Jungar and Peltonen, 2015; Ahmed, 2011; Liinason, 2019; Jivraj and de Jong, 2011; Wekker, 2016; van den Ende, 2018).

Policy attempts to produce out and proud gay and lesbian subjects can be complicit in these stereotypes. Scholars have, for example, argued that the Dutch policy document on just being gay that the Dutch Ministry of Education, Culture and Science launched in 2007 for the period 2008–11 had problematic side-effects (Jivraj and de Jong, 2011). The policy has been problematised for implicitly reproducing anti-Muslim discourse by suggesting that Muslim minorities fail to respect liberal Dutch values, such as tolerance

towards homosexuality (*ibid.*). This juxtaposition, which has also been evident in Dutch public discourse, has triggered many critiques from Dutch social scientists (Bracke, 2012; van den Ende, 2018; Mepschen, Duyvendak and Tonkens, 2010; Wekker, 2016). Moreover, it was argued that the policy normalised a Eurocentric gay identity that is outward and publicly defined through the notion of pride and coming out (Jivraj and de Jong, 2011).

This example illustrates a common issue in policy discourses around Muslim or LGBTQ persons of colour. The focus in these policies amplifies the homophobia that ethnic minority queers face in their communities, thus constructing these communities as exceptional in their homophobia. What remains unacknowledged is racism in the LGBT community and the racist side-effects of LGBTQ political discourses. Scholars have further highlighted that single-issue approaches to anti-discrimination fail to acknowledge that many racialised LGBTQ persons rely on their communities and families to cope with the racism of wider society (Fremlova *in print*). These tendencies debilitate meaningful strategies against violence and discrimination. In addition to the reproduction of racist discourses, LGBTQ initiatives that aim to make policing more inclusive or that push for the recognition or reporting of hate crimes rarely address the issue of institutional racism in law enforcement.

Empirical studies have shown that queer people of colour in Europe are disproportionately subjected to violence and discrimination. This includes racially biased police investigations, which have been identified to lead to distrust towards law enforcement (Castro Varela, 2012; Fremlova *et al.*, 2014). For queer people of colour, this is particularly problematic, as the mainstream LGBTQ movement has failed to acknowledge that police violence disproportionately affects black,

53 In the LGBT movement in Europe, the term homophobia has been used as a colloquial to name and contest anti-gay hostility. In academic literature, the term is contested because of its psychoanalytical roots and, with that, its individualising potential. It has further been criticised for failing to take into account the intersectional nature of sexuality by separating sexuality from other power dimensions. For an in-depth discussion, see Boulila, S.C. (2019) 'Race in Post-homophobic Europe'. In: *Race in Post-racial Europe: An Intersectional Analysis*. London, Rowman & Littlefield International.

Muslim and Roma LGBTQ persons and queer refugees (Russell, 2018). The hate crime paradigm⁵⁴ that has been embraced by many LGBTQ organisations across Europe and that aims to encourage LGBTQ persons to report homophobia or transphobia to the police is not sensitive to the institutional racism queers of colour are subjected to.⁵⁵

Asylum

LGBTQ persons often remain invisible in the asylum system (Held and Tschalaer, 2019). For many asylum seekers, coming out is highly ambivalent in view of the heteronormative structuring of asylum legislation and processes. The recognition of homosexual and bisexual refugees is based on a narrow and Eurocentric understanding of homosexuality (Tschalaer in print, Sari, 2020). Asylum seekers are reportedly asked invasive and problematic questions or have to provide proof of their sexual identity in order to establish credibility and authenticity of their claims (Tschalaer, 2020; Sari, 2020). Credibility is subsequently constructed around Western ideas of visible gay and lesbian identity, childlessness and independence from their families (Sari, 2020). There is a lack of recognition for the complex life situations of non-heterosexual refugees, especially when they have previously been married to a person of the opposite gender and have children in the country of origin (Held and Tschalaer, 2019; Sari, 2020). Empirical research further indicates that bisexual women are rejected on the basis of their bisexuality (Sari, 2020).

Accommodation is often in remote rural areas, lacks privacy, access to specialist services and networks, and fails to safeguard LGBTQ refugees from violence (Held and Tschalaer, 2019). These factors have been identified as additional sources of mental and emotional stress (ibid). In various contexts, it has further emerged that there is

arbitrary decision-making in asylum cases, which has been linked to racist stereotypes and also to a lack of knowledge about the situation of queer communities and especially LBTI women* in their countries of origin (Held and Tschalaer, 2019; Sari, 2020; Alessi et al., 2020). It has further emerged that specialist services are often underfunded and have long waiting periods (Held and Tschalaer, 2019; Alessi et al., 2020).

Road ahead

This chapter has illustrated the problems that result from a single-axis approach to LGBTQ discrimination. On an institutional level, most actors demonstrate a worrying lack of understanding of the intersectional nature of oppression and discrimination. This is evident in EU institutions, national policies and also amongst LGBTQ civil society actors. There is a general lack of accepted policy language available to speak about the intersectional discrimination faced by LGBTQ persons of colour. Many LGBT organisations also work with a problematic understanding of multiple oppressions. Rather than recognising LGBTQ persons of colour as being on the receiving end of both homophobia and racism, there is an emphasis on homophobia, particularly when linked to ethnic minority communities. This understanding demonstrates a common prejudice that locates homophobia in racialised communities, especially Muslim communities, while normalising white European societies as inherently gay-friendly.

There is a lack of anti-discrimination measures that deliver justice to LGBTQ persons of colour. Although intersectionality is sometimes mentioned in LGBT frameworks, it is often reduced to the idea that queers of colour face particular difficulties in their communities. This approach is partial, as it fails to address the racism within

54 Experts have argued that hate crime legislation removes homophobia from heteronormative social norms, as offenders are understood to be exceptional and individual in their hate. This is misleading in the sense that it fails to recognise that homophobic violence is one of the many effects of the heterosexual norm. For an in-depth discussion, see Boulila, S. C. (2019) 'Race in Post-homophobic Europe'. In: *Race in Post-racial Europe: An Intersectional Analysis*. London, Rowman & Littlefield International: 103–122.

55 For an in-depth discussion, see, for example, Haritaworn, J. (2010) 'Queer Injuries: The Racial Politics of "Homophobic Hate Crime" in Germany'. *Social Justice* 37(1): 69–89.

mainstream LGBT movements and community spaces. It also fails to acknowledge how homophobia has been attached to racialised communities that reproduce the idea of enlightened white Europeans versus backward others.

Across Europe, there has been a handful of specialised anti-racist LGBTQ groups and organisations that have embraced intersectionality. These organisations empower and support LGBTQ persons of colour through various services. As is characteristic of such organisations, they do not only work with their clients individually but also engage with entire families and communities through community-based anti-violence strategies. Muslim LGBTQ organisations, for example, provide faith-based services such as emancipatory interpretations of Islam for queer Muslims, their families and communities (Shah, 2016). Moreover, these organisations and groups engage in anti-racist anti-discrimination work in the LGBT community by actively contesting racist stereotypes, including the virulent idea of Muslim homophobia. They also critically engage with single-issue policies that exclude or marginalise LGBTQ persons who are subjected to racism.

Berlin-based organisations GLADT and LesMigraS offer a wide range of counselling services to queer people of colour. GLADT is an organisation of black, indigenous and persons of colour LGBTQ persons in Berlin. LesMigraS is the anti-discrimination and anti-violence work area of the Lesbian Counselling Centre Berlin. Both organisations foreground intersectionality and structural discrimination in their work with their clients. Specialist counselling services for LGBTQ persons often work through a single-issue lens (Castro Varela, 2012). An intersectional approach to LGBTQ counselling, on the contrary, has been identified to take into account structural discrimination and the intersectional position of the clients. Using non-discriminatory language and particularly contesting Eurocentric concepts such as coming out have also been identified as important aspects of providing inclusive counselling services for queer people of colour (ibid.). Both GLADT and LesMigraS offer their services in a range of languages. In the UK, the Safra Project provided specialist services for LGBTI Muslim women between 2001 and 2016. The voluntary organisation provided faith-based resources and individual support for lesbian

bisexual and trans* women. They also engaged with their clients' families and faith communities.

An engagement with entire communities is particularly important for intersectional LGBTQ organisations, as they work through community-based anti-discrimination and anti-violence approaches. This can take various forms. LesMigraS and GLADT engage the mainstream LGBTQ community and community leaders in a wide range of projects that aim to combat racist stereotypes and discrimination. A further avenue of intersectional anti-discrimination work is also the provision of participatory spaces for queer people of colour (Castro Varela, 2012). LesMigraS and GLADT, for example, facilitate specialist groups and workshops. Such spaces are deemed politically important, as they allow for democratic participation of particularly marginalised subjects and thus foster empowerment (ibid.). The Berlin-based Center for Intersectional Justice also operates intersectional community open space events where community activists, leaders and academics with an investment in intersectionality meet and seek solutions for political problems. The Open Space Method allows for a bottom-up approach to problem analysis.

A further example of community-based anti-discrimination work is UK Black Pride, a designated pride festival for LGBTQ people of African, Asian, Caribbean, Middle Eastern and Latin American descent, as well as their families and friends. UK Black Pride has been particularly successful in providing an alternative to mainstream pride festivals that have been widely criticised for their lack of anti-racist sensibilities (see, for example, Russell, 2018). UK Black Pride provides participatory spaces for queer people of colour through education, the arts, cultural events and advocacy. UK Black Pride's stakeholders include not only LGBTQ people of colour but also their families and friends who are explicitly invited to the main pride event. The organisation's advocacy has included the #StopRainbowRacism campaign that took a stand against blackface performances at pride events, including mainstream pride events.

Although there are various organisations and projects that foreground an intersectional approach in their service provision and advocacy work, these services and spaces are mainly available in large cities that are known as LGBTQ metropo-

lises. It can, therefore, be argued that lesbians of colour in rural spaces presently lack adequate support and are particularly vulnerable to the alienating effects of single-issue anti-discrimination work. Moreover, many of the mentioned organisations currently struggle to obtain funding

or have ceased to exist due to a lack of funding or funding cuts. With the marginality and precarity of specialist organisations, there is a danger of mainstream LGBT organisations approaching the issue in a reductive or mere symbolic manner.

4.4 Disability

There is a lack of research into the lived experiences of disabled lesbian women* in Europe. However, since the early 1990s, a small number of scholars have problematised the difficult position of lesbians with disabilities. These scholars argued that even in progressive frameworks, disabled women*'s sexuality was mainly understood around a narrow outlining of reproductive rights and the question of childbirth (see, for example, O'Toole and Bregante, 1992). Services were criticised for leaving disabled lesbian women* behind. Academics have argued that the social model of disability has been key to addressing questions of sexuality (Ballan, 2008). Contesting the primacy of biologism, the social model of disability has re-framed disability as a question of social exclusion imposed upon individuals by society and, with that, as a social justice issue (Oliver, 2013).

The issues that have been identified to affect disabled lesbians are invisibility in both disability discourses and lesbian discourses. This has resulted in a lack of service provision, and negative experiences with health care providers (O'Toole, 1996). Moreover, disability is often outlined by the medicalised presumption of a lack of or excessive sexuality (O'Toole, 1996; Kim, 2011; Azzopardi-Lane and Callus, 2015). This stigma has been identified to materialise in health care provision and in the denial of disabled lesbian women*'s sexual agency (O'Toole, 1996). Lesbian, gay and bisexual persons with developmental disabilities are often subjected to further pathologisation for their sexual desires and are denied a positive sexual identity and agency (Azzopardi-Lane and Callus, 2015).

Social workers and other caregiving professionals have been identified as particularly important in supporting LBT women in their sexual agency

(Drummond and Brotman, 2014). Residential group settings have also been identified as key sites where disabled persons can be inhibited or empowered in their sexual agency. A lack of privacy and asymmetrical power relations between residents and staff have been criticised for not enabling residents to lead consensual sexual and romantic relationships (Hollomotz, 2009). Experts have further argued that the coming-out process is particularly complicated for disabled lesbians who rely on their families or care workers for care or mobility (O'Toole, 1996). A study on staff working with persons with cognitive disabilities further highlighted that many professionals feel that they lack adequate training to address questions of sex and sexuality in their work with clients (Abbott and Howarth, 2007). Many felt uncomfortable addressing LGBT issues unless it was an issue raised by the clients. It was also found that most institutions in the study did not actively curate an atmosphere that was inclusive and supportive of gender and sexual diversity.

Academics have further argued that there is a lack of role models and positive representations. This makes it particularly complicated for young people to form an identity beyond stereotypes and pathologising narratives (Toft, Franklin and Langley, 2019). Moreover, LGBT communities and especially the commercial gay and lesbian scene have continuously been problematised for being attached to normative beauty standards and for lacking a culture that is inclusive of disability (Butler, 1999; Blyth, 2010). In a recent study on young LGBTQ disabled people, gay community spaces were problematised for their lack of disability inclusivity (Toft in print). The question of accessibility was hereby tied not only to physical barriers but also to normative and ableist representations of bodies.

4.5 Elderly lesbians

Elderly lesbians are underrepresented in popular and academic discourse (Traies, 2014). Moreover, there is significant concern in scholarship that health and social care providers currently still fail to meet the needs of elderly lesbians despite the increasing number of LGBTQ persons amongst the elderly population. There is a large disparity between EU Member States as well as between rural and urban regions in the provision of specialist, safe and respectful services for older lesbian women*. Elderly care and health services have a problematic history with marginalised sexual identities (Addis et al., 2009). Many studies indicate a fear amongst elderly lesbians of disclosing their identities to service providers.

The heteronormative structuring of residential facilities has a debilitating effect on the well-being of older lesbians (ibid.). Qualitative data from the UK shows that the loss of independence and the move into a formal care facility is associated with a loss of identity and fear of a hostile environment (Traies, 2014). A study from the US found that older lesbians prefer specific services for lesbians or women* only and that they are aware that most facilities do not respect their sexual identity (Averett, Yoon and Jenkins, 2011). The same study also indicated significant experiences of homo-

phobia in private and public places and also with service providers that appeared to inform older lesbians' legitimate wish for lesbian-only services (Averett, Yoon and Jenkins, 2013). Research from the UK indicates that older lesbians are invested in strong friendships and informal mutual care networks (Traies, 2015; Traies, 2014). It can thus be concluded that elderly lesbian communities compensate for the lack of specialist care and support through unpaid care work.

Scholars stress that older lesbians are particularly invisible, which can be attributed to ageism⁵⁶ and sexism, particularly to the desexualisation of old age and the dominant association of women's sexuality with procreativity (Averett, Yoon and Jenkins, 2013; Traies, 2014). However, a number of lesbians choose to conceal their sexual orientation amid having lived through repression (Traies, 2014; Rufli, 2015). In research and community debates, the category elderly lesbians tends to be homogenised; furthermore, there is an urgent need to recognise the heterogeneity amongst elderly lesbians and to develop a better understanding of intersectional discrimination (Averett, Yoon and Jenkins, 2011; Traies, 2014). There is a lack of research on elderly lesbians of colour and on older lesbians living in rural areas (Addis et al., 2009).

4.6 Youth and school

Sociologists of sexualities have argued that structural inequalities are often misrepresented in individualising and pathologising notions of risk. This is especially true for young queer women (Taylor, 2007). There is considerable knowledge production around mental health and LGBT youth. However, these studies rarely consider social factors and run the risk of re-pathologising LGBTQ young people (McDermott, Roen and Piela, 2015).

Heteronormativity and homophobia in schools

Academics have argued that formal regulations and educational cultures inhibit the positive visibility of gender and sexual diversity (Monro et al., 2016; Taylor, 2007a). The silence around queer sexualities in curricula, in addition to peer pressure around normative gender and sexual norms, and

56 A set of discourses that produce stereotypes about elderly people as lethargic, ill, resistant to change. These discourses have a homogenising effect in the sense that elderly people are stripped of their individuality.

sometimes even bullying makes schools a highly ambivalent space for lesbian, bisexual and trans* youth (Taylor, 2007a). The silence and norms can also promote a culture of fear surrounding alleged unnaturalness and illegality of homosexuality or gender diversity. Sex education has been identified as a source of heteronormativity in schools, leaving young lesbian and bisexual women having to rely on other sources for information (ibid.). In most EU countries, education professionals do not receive specialist training on LGBT issues as part of their professional training (Monro et al., 2016).

Bullying

Bullying has been identified as a phenomenon affecting lesbian educational attainment (Uhrig, 2014; Taylor, 2007a). Discrimination on the grounds of sexual orientation has been identified as a key issue in educational settings (Monro et al., 2016). Qualitative research from the UK illustrates that lesbian school students face hostility and attacks that remain unnoticed and unpunished by educational staff (Taylor,

2007). The Council of Europe Strategy for the Rights of the Child (2016–2021) mentions homophobic bullying as an issue that the Council of Europe must address through awareness-raising action and campaigns. The Committee of Ministers' recommendation CM/Rec(2010)5 to EU Member States on measures to combat discrimination on the grounds of sexual orientation or gender identity maintains that Member States should implement measures that safeguard pupils from bullying, exclusion and discrimination on the grounds of sexual orientation in schools. These measures include providing children with judgment-free information about gender and sexual diversity such that children can access the relevant information in line with their identity. The measures further involve designing and implementing school equality policies and action plans that include anti-discrimination training for staff. However, there is no comprehensive research about the implementation of the educational recommendations of CM/Rec(2010)5 in the EU Member States. There is also no research about how the implementation has addressed the needs of lesbian school students.

4.7 Violence

There is a lack of understanding and acknowledgement of the prevalence of anti-lesbian violence, harassment and abuse. In academic literature, violence is a contested subject. It is a phenomenon that has been examined by various disciplines, including philosophy, sociology and psychology. Specific analyses of anti-lesbian violence are scarce, as they are often subsumed under the anti-gay category, which implicitly focuses on gay men. Moreover, discussions of sexual harassment implicitly focus on heterosexual women. The same logics are reproduced in policy discourses.

In addition, anti-gay violence in policy discourse generally refers to extreme acts of interpersonal violence, usually through the discourse of hate crime, or through the discourse of state-sponsored homophobia—a not unproblematic activist discourse to criticise extreme laws that target gay and lesbian subjects, such as the prohibition

of consensual same-sex sexual acts. Especially, the popular hate-crime paradigm has been informed by individualising conceptions of violence and by a tendency to separate social norms around gender and sexuality from physical and verbal violence against LGBTQ subjects (Browne, Bakshi and Lim, 2011; Boulila, 2019b; Browne et al., 2015).

Academic work that focuses on anti-lesbian violence and harassment, on the other hand, stresses the role of heteronormative gender and sexual norms and, with that, the normative and structural dimension of violence (Ferfolja, 2008; Sifaki, 2018; Boulila, 2015; Browne, 2004, 2007). These works also illustrate how the continuum of violence starts long before the extreme verbal and physical acts that are recognised by policy and activist discourses. Scholars in lesbian studies, thus, follow a broader and more wide-ranging definition of violence.

Another prism that has been used to talk about violence against LGBTQ persons is the prism of gender-based violence. This notion has been used in policy discourses to primarily name and contest violence against women. As a concept, it departs from the feminist understanding that historically grown gender inequalities and gender roles are the root cause of violence against women (Russo and Pirlott, 2006). However, in most policy debates, gender-based violence is marked by heteronormativity. The specific experiences of lesbian women* thus remain largely unaddressed in those debates.

Research into lesbian experiences of violence illustrates that there is an array of more subtle violent acts, such as harassment and certain forms of abuse, that are not addressed through dominant discourses. The few qualitative studies illustrate that subtle forms of discrimination are not validated by the discourse of homophobia, which is focused on extreme acts of violence. Lesbians, thus, often lack an accepted and politicised vocabulary to speak about their experiences and perceptions of the world they live in (Boulila, 2015). Moreover, subtle forms of discrimination against lesbians are often played down and disconnected from heterosexist norms by presenting the perpetrator as a disturbed or unstable individual and, with that, as a pathologised exception of the norm (Ferfolja, 2008). Another easy explanation that is often used to purportedly explain violent behaviour is the association of homophobic violence with a particular cultural background, usually Muslim/Arab. This discourse, which has its followers in activist, policy and academic debates, is part of the racialisation of homophobia, which was discussed in chapter 4.3 and which is a common form of contemporary racism (Boulila, 2019b).

Analytically, it is important to note that public debates around anti-gay and lesbian violence do not sufficiently account for the normative dimension of violence. In feminist and queer scholarship, norms are understood to restrict gender and sexual expression (Butler, 2004a; Butler, 2004b; Boesten, 2014). Breaking with norms, including

breaking with gender norms or heteronormativity, exposes individuals to sanctions comprising physical violence, verbal abuse or harassment. Recent scholarship has thus called to better account for social relations in policies that target anti-LGBT violence (Browne, Bakshi and Lim, 2011).

Research has also noted that LGBTQ persons deal with experiences of violence differently and have diverse needs concerning those experiences (Browne, Bakshi and Lim, 2011). While in certain cases this might mean professional support, research has shown that many prefer the support of their communities over professional help (Castro Varela, 2012; Browne, Bakshi and Lim, 2011). For this reason, researchers that consider the normative dimension of violence have identified community-based anti-violence projects as particularly productive means to challenge violence against LGBT persons (Browne, Bakshi and Lim, 2011).

In this respect, a German study on LBT women's experiences of violence (Castro Varela, 2012) found that informal networks play a particularly important role in providing support. Support by relatives and friends was identified as particularly positive, while those respondents who had pressed charges were least satisfied. This illustrates that legal procedures can be a source of additional stress and pose risks for victims of violence (Browne, Bakshi and Lim, 2011). The study from Germany also concluded that lesbians mainly trust in community and user-controlled services (Castro Varela, 2012). However, these services are scarce and underfunded and thus rely on volunteers. This is particularly problematic, as community networks have been identified as a resource for those who live in marginalised positions (Browne, Bakshi and Lim, 2011).

Critical engagements with anti-LGBT violence stress that it is problematic to solely focus on LGBTQ communities to address an issue that is, in fact, a societal problem (Browne, Bakshi and Lim, 2011). This is also a cautious argument

against psychocentric⁵⁷ approaches that focus on resilience and emphasise therapeutic responses. Instead, it is important to engage wider communities, schools, workplaces and other institutions in the struggle against anti-lesbian and anti-LGBT

violence, which includes challenging prevalent norms around gender and sexuality. Community-based anti-violence initiatives are considered particularly promising (Browne, Bakshi and Lim, 2011; Castro Varela, 2012).

4.8 Health inequalities

The de-pathologisation of lesbian sexualities and trans*, inter* and non-binary identities has been identified as an important site for combating LGBTIQ health inequalities. Persistent stereotypes, such as the deep-rooted belief that homosexuality is an illness, continues to be an issue amongst health care professionals across Europe (Monro et al., 2016). The need to de-pathologise has particularly been emphasised in transgender studies alongside the call to move beyond the diagnostic logic that has historically othered trans* individuals (Hines, 2013; Hines and Santos, 2017; Davy, 2015). However, there is also an urgent need to de-pathologise lesbian sexualities. Creating health care services free from stigma continues to be a struggle in EU countries. Being able to consult health care services and receive the desired treatment without stigma, accessing community care in hospital and care settings, simply visiting one's partner in hospital, as well as having access to a welcoming environment in primary care have been identified as relevant areas for development (Davy and Siriwardena, 2012; Monro et al., 2016).

A British study that examined homophobia amongst therapists found that over 20 per cent of respondents had supported their clients in changing or reducing their homosexual or lesbian desires (Bartlett, Smith and King, 2009). Homophobic attitudes amongst therapists have been identified as a persistent issue in several European contexts (Lingiardi, Nardelli and Tripodi, 2015; Chatziagorakis and Fitzgerald, 2016; King, 2015;

Preis, 2016). It has further been argued that homosexuality continues to be associated with certain psychiatric diagnoses, which has been identified as a symptom of the discipline's underlying heteronormative premises (Mahler, Mundle and, Plöderl; 2018).

The majority of academic research in the field of LGBT health has focused on mental health issues and risk-taking behaviour. Especially health sociologists have argued that these foci fail to represent the heterogeneity and intersectionality of health needs and risk a reproduction of pathologising stereotypes (Davy and Siriwardena, 2012). It has been argued that adding LGBTQ people to the mix will not change inequalities. Instead, there is a need to change health care institutions in lasting manners. This includes policies that help practitioners reduce health inequalities, creating inclusive workplaces for LGBT health care staff and promoting transgender health care services, including non-pathologising health care services (ibid.). It has further been argued that policy does not automatically translate into a change of practice on the ground and that there is a need for training, especially about the medico-legal rights of homosexual and trans* patients (ibid.). There is further need for nuanced research about the heterogeneity of the health care needs of LGBTQ persons, particularly with regards to intersectional inequalities.

57 Psychocentrism is a critical sociological concept that critiques discourses and ideas that pathologise individuals for social problems and structural inequalities.

4.9 Work and employment

It has been argued that gender and sexual orientation tend to reinforce each other when it comes to the discrimination of lesbians in the workplace (Lloren and Parini 2017; Parnell, Lease and Green, 2010; Biaggio, 1997). A recent study from Switzerland demonstrated that lesbian and bisexual women employees were more likely to report discrimination (Lloren and Parini, 2017). In a Finnish study, 15 per cent of the lesbian respondents said that they had left a workplace due to an oppressive environment (Lehtonen, 2008). Moreover, despite the dominant stereotype that lesbians choose non-gender stereotypical careers, a Finnish study found that most respondents worked in female-dominated fields (Lehtonen, 2008), which usually pay lower salaries than male-dominated fields. It has further been argued that lesbian employees are subjected to normative expectations with regards to heterosexuality and gender norms, which can result in sanctions, including bullying and harassment (Losert, 2008; Tweedy, 2019; Wright, 2013; Ferfolja, 2008; Hamilton et al., 2019).

There are different arguments being made with regards to coming out in the workplace. Many studies stress that being out at work can increase well-being, as it allows for a consolidation of the professional and private identity (Lloren and Parini, 2017). It has also been argued that not being out can be experienced as negative when it is linked to the risk of being outed (McFadden, 2015; Woodruffe-Burton, 2016). However, being out has also been identified as a source of hostility (Chamberland, Bernier and Lebreton, 2009). More recent arguments have also problematised the moral and normative pressure of coming out in the workplace (Burchiellaro, 2019; Benozzo et al., 2015; Losert, 2008). Researchers agree that identity management is a central aspect of lesbian working life, as lesbians are expected to cope with heteronormative and gendered expectations (Woodruffe-Burton, 2016; Burchiellaro, 2019; Sifaki, 2018; Wright, 2013). It has particularly been argued that dealing with one's sexual identity at work is a process that is not terminated by coming out (Losert, 2008; Hamilton et al., 2019).

LGBT-supportive workplace policies have been identified to increase workers' commitment to the organisation (Lloren and Parini, 2017; Woodruffe-Burton, 2016). Academic research has evaluated anti-bullying policies, diversity training and the provision of family benefits to same-gender couples and LGBT employee groups (diversity networks) as particularly positive (Woodruffe-Burton, 2016). However, more recent studies highlight the problematic tension between policies rooted in an understanding of social justice and policies rooted in business case arguments. LGBT diversity initiatives have been critiqued for lacking a critical engagement with social structures and norms, which results in many LGBT workers being left behind by the aforesaid initiatives (Burchiellaro, 2019).

A number of policies have been problematised for focusing on those working in management or highly specialised areas, while low-wage LGBT employees are not invested in (*ibid.*). Role model politics, popular amongst many gay and lesbian business networks, have come under particular scrutiny. Investing in and showcasing out proud and successful leaders as being the ideal LGBT workers, has been criticised for creating a moral hierarchy between those who come out and those who do not come out (Benozzo et al., 2015; Burchiellaro, 2019). Moreover, a sole investment in purported role models has also been problematised for reproducing social hierarchies amongst LGBT workers and for presuming that there is a trickle-down effect (Burchiellaro, 2019).

Furthermore, the association of coming out with authenticity in certain literature and organisational practice problematically suggests that those who do not come out are inauthentic (Benozzo et al., 2015). This stabilises a certain idea of sexual identity, which corresponds to Eurocentric and middle-class discourses of gay identity. Moreover, the insistence by a number of scholars and certain LGBT employment groups that only an authentic worker is a productive worker creates a problematic link between authenticity and productivity (Burchiellaro, 2019), which produces normative pressures and hierarchies again.

It has increasingly been argued that in order to tackle the marginalisation of lesbian employees, organisations need to tackle hostile environments and work against heteronormativity and sexist gender and sexual norms (Hamilton et al., 2019; Losert, 2008). There is also an increasing critique of lumping LGBT issues together without paying reference to specific stereotypes and expectations (Hamilton et al., 2019). Academics have suggested that workshops and training can be an effective means to challenge stereotypes and norms (ibid.). Diversity networks, such as LGBT employee groups, have been identified as ambivalent in scholarship (Dennissen, Benschop and van den Brink, 2019; Burchiellaro, 2019). Although diversi-

ty networks can be a means to strive for equality, empirical research shows that a number of networks reproduce institutional and structural norms through upholding values, such as individualism, personal responsibility and professionalism (ibid.). Nevertheless, a number of diversity networks have been identified as agents of structural change. Such groups outline the organisation as the entity that has to change by pressing for an inclusion of more diverse work patterns and hours, thereby challenging the notion of professionalism, and by identifying and opposing structural and cultural barriers that result in hierarchies amongst employees (Dennissen, Benschop and van den Brink, 2019).

4.10 Media, representations and public discourse

Studies that examine the representation of lesbian identities and issues in mass media and lesbian media are scarce in Europe. Lesbian issues in public discourse are rarely addressed as specifically lesbian issues. Instead, these issues are usually dealt with as part of gay rights issues, including public debates about equal marriage and joint adoption. Lesbian media production has been identified as a significant site of collective identity and community building, and as a means to mediate lesbian culture (Turner, 2008; Gomillion and Giuliano, 2011). Moreover, specialist media outlets are considered to play a particularly important role for LGBT youth in view of the lack of positive and diverse representations of LGBTI women* in mainstream media (Craig et al., 2015; Gomillion and Giuliano, 2011). Lesbian magazines and journalists often mobilise around the wish to increase lesbian visibility and to provide a critical alternative to mainstream women's magazines that have been problematised for their heteronormative premises (Turner, 2009). However, the small number of lesbian media outlets highlights the difficulty for such projects to compete in the publishing market.

Lesbian magazines have been identified to be more diverse and inclusive in terms of gender and body representation. Nevertheless, a study from the US found that lesbians of colour were still

underrepresented (ibid.). However, in Europe, research about the lesbian media's role in the racialisation of homophobia and about the representation of lesbians of colour is still lacking. Such research would be important given that lesbian media production can also reinforce normalisation and marginalisation, especially towards bisexual and trans* women* (Turner, 2015). Marginalisation or outright hostility towards bisexual and trans* women has been an ongoing issue, and it has been shown that lesbian media producers have to be aware of the boundaries they create and discourses they legitimise. In addition to lesbian magazines, an increasing number of lesbian YouTubers are currently curating online communities.

The issue of inclusive/exclusive discourses becomes particularly pertinent with regards to YouTubers specifically engaging young viewers. Questions about how media and queer media pedagogy can empower marginalised LGBT youth—especially young lesbians—arise. It has been argued that queer youth should be supported not only in acquiring digital media literacy—especially learning to navigate digital social spaces, which includes relationships, friendships and desire—but also in dealing with normative ideas of gender and sexual identity (Berliner, 2018). However, equitable digital participation also

means enabling access to technology and media production skills. Researchers have argued that teaching media production skills to marginalised youth and enabling access to technology is a means of empowering marginalised voices to tell their stories. Moreover, social media digital participation provides a realm to work with LGBT youth who do not have access to physical queer youth spaces or networks.

Scholars have been concerned about the increasingly vocal resistance against sexual equalities, which is mediated by mainstream media outlets and on social media (Browne and Nash, 2017; Kuhar and Paternotte, 2017; Turner et al., 2017; Nash and Browne, forthcoming). Heteroactivism, the multifarious and transnational resistances to gender and sexual equalities and reproductive

rights, increasingly manifests in public discourse (Browne and Nash, 2017). Heteroactivist groups, movements and actors distance themselves from accusations of homophobia, sexism and transphobia by embracing narratives of victimhood, protection, care and liberal institutions, such as freedom of speech and children's rights (ibid.). The project titled 'BeyondOpposition: Opposing Sexual and Gender Rights and Equalities: Transforming Everyday Spaces' (2019-24/PI: Katherine Browne) funded by the European Research Council currently explores means of engaging heteroactivist actors in order to tackle polarisation. However, the surge of heteroactivism in public discourse and, with that, in mass media also poses questions around equality and diversity policies in journalism.

4.11 Rural lives

There is little knowledge about the lived experiences of lesbians in rural areas in Europe. European policy responses have demonstrated awareness of rural women's heterogeneity and struggles (Llobregat, 2018). However, European policy interventions focusing on women living in rural areas fail to move beyond a single-issue gender mainstreaming approach and do not demonstrate an awareness of sexual orientation. With public discourse associating sexual freedom with urban spaces (Hubbard, 2012; Bilić and Stubbs, 2015), rural spaces are imagined as inherently heteronormative and hostile towards queer subjects (Butterfield, 2018).

However, rural societies and regions are not monolithic, and diversity needs to be accounted for in research as well as in civic processes and service provision. The sole understanding of the urban/rural axis through the progressive/conservative dichotomy has only provided a limited and arguably normative understanding of rural queer lives in Europe. This understanding appears to lead to the assumption that sexual orientation and gender diversity do not exist in rural spaces; this assumption leads to the further marginalisation of rural lesbians.

Studies from the US that have focused on rural lesbians have found that rural lesbians struggle with the pressures from heteronormative gender norms, isolation and poverty (Cohn and Hastings, 2010). Rural women in Europe have been identified to be affected by poverty and patriarchal norms (Llobregat, 2018). With a lack of current data, it can only be assumed that these issues intersect in the lives of rural lesbians in Europe. What has been found in the EU is that service providers in rural spaces often lack specialist knowledge or services to cater for the needs of LGBTQ minorities (Monro et al., 2016). Furthermore, there is a lack of community initiatives and spaces that could foster visibility and participation (Bilić and Stubbs, 2015; Butterfield, 2018).

The marginalisation of LGBTQ people in rural societies and regions, lack of access to services, isolation or moral constraints have to be understood through situated and geographically nuanced factors and analyses (Monro et al., 2016; Butterfield, 2018; Bilić and Stubbs, 2015). At the same time, rural spaces have to be evaluated for their potential to accommodate gender and sexual diversity, especially with the challenges posed by urbanisation.

4.12 LGBTIQ organisations and civic participation

Paternotte and Kollman (2013) illustrated that international factors have played a significant role in the widespread legal recognition of same-sex unions in Europe. They argued that policy harmonisation and convergence in the case of LGB politics have been informed by informal processes including informal policy networks between NGOs, activists and national and international policymakers. These networks have been particularly successful through strategies including strategic elite networking and regular contact with national and international policymakers (*ibid.* page 517). While LGBTIQ organisations are deemed important for political change, they can also increase hierarchies amongst LGBTQ persons.

Research from Eastern and South-Eastern European countries illustrates that LGBT activist professionalisation may have had side effects. Competitive foreign funding has been identified to impose frameworks that can reproduce inequalities, such as reinforcing the urban-rural dichotomy or narrowly focusing on human rights frameworks over approaches that would allow addressing broader inequalities (Bilić, 2016; Bilić and Kajinić, 2016; Bilić and Stubbs, 2015). Bilić (2016) argued that in the context of former Yugoslav countries, the emphasis on human rights frameworks over social and economic inequalities and access to resources has led to a fragmentation

of the activist field. The narrow specialisation imposed by donors has debilitated organisations to work across different axes of oppression. Moreover, the professionalisation of these organisations, epitomised by technocratic discourses, has led to an alienation of ordinary LGBT people and to an exclusion of those LGBTQ subjects who are most vulnerable to intersectional oppression (Bilić and Stubbs, 2015; Bilić and Kajinić, 2016). However, there are also examples of organisations that enable community building and participatory spaces that work on the premise of intersectional inclusion and engage in advocacy.

With the Eurocentralasian Lesbian* Community (EL*C), European lesbians have a fast-growing transnational network and advocacy organisation. Growing out of a self-organised initiative in 2016 with the goal of organising a conference to bring together the community, EL*C has become a professionalised institution that fosters community building, visibility and advocacy at EU policy level. In 2020, the organisation also conducted a community study on lesbian organising in Europe, funded by the BMFSFJ. Since 2019, the organisation has had an office with paid staff members. The EL*C has been one of the main drivers behind revealing the gender indifference in LGBT policymaking and particularly the indifference towards lesbians at EU level.

5

Country case studies

5.1 Poland (Marta Olasik)

It is safe to say that Poland appears to hold a unique position within the EU when it comes to the status—and treatment—of women and non-heterosexual citizens, be it in a political, public, social or legal capacity. Poland is now part of a wider contemporary capitalist framework. However, following a unique experience of the socialist period until the year 1989 and then entry into the EU in 2004, the country as it is now is the result of historically conflicting and/or intersecting forces that influence—and have serious implications for—the contemporary social, legal and political life on a micro level. The general problem appears to be that Poland has been unable to catch up with—and rise to—a wider discourse and debate on human rights and equity – or at least on a number of related aspects – that has been going on in historically different localities.⁵⁸ The question of womanhood and the status of non-hetero-

sexual citizens—as well as the language used publicly to deal with these groups—is where history has left an imprint. By extension, the situation of lesbian* citizens specifically is unique on a European scale⁵⁹ in that no separate discourse centering on lesbian feminist or—more generally—the sexuality of womanhood has ever had a chance to develop on a public or political/public level (Banerjea et al., 2019). In order to understand this discursive and, thus, tangible lack, the general status of women in Poland must first be understood.

Firstly, a country offering no governmental institutions that specifically focus on lesbians* comes as no surprise given the complete lack of an LGBTIQ* framework. Furthermore, there is no governmental position or organisation that would generally cater for the needs of women; there is no ministerial unit or group assigned to represent

58 The author of this case study is well aware of the impossibility to justify a simple East–West or Poland–EU divide. The statement and claims offered here are an imperfect attempt at communicating and elaborating on a uniqueness of the Polish reality from a native’s perspective. This is not to say that the EU—or a more general Western world—is a cradle of human rights and equality. The author realises the problematic character of such a black and white line of thinking, especially when considering the pervading racism, the situation of disabled and/or homeless people, the lack of parenting rights for lesbian women, and the recently accumulated refugee crisis. The EU is not an example to follow in all these areas. Still, it is important to note that the inequalities in the eastern part of Europe have a much more basic character, so to say. There is no room for otherwise obvious legal frameworks and intersectional awareness due to a lack of any understanding and acknowledgement of the very elementary notions—for example gender, sexuality and feminism—that other localities worked through a long time ago as they introduced frameworks to protect their various expressions, even though the means of executing particular laws and acting on a supposedly progressive line of thinking are, of course, very different issues; whereby the EU fails to facilitate progress and respect, and contributes to the systemic oppression of many citizens. All this needs to be considered when interpreting the case study herein; this is not a simple comparative analysis.

59 Although the case study from Sweden (part of this report) shows that no specifically separate discourse on lesbian identities and citizenships has developed in the Swedish reality either, the author of this particular analysis on the Polish circumstances would point to the difference in the bigger picture and the separate causes of these two situations. While Sweden’s gender neutrality policies can be considered problematic—for example, they erase idiosyncrasies and diversity with non-heterosexual communities—from a Polish point of view, they nonetheless reveal a significant amount of progress and social awareness with regard to the notions of gender and sexuality in the first place. On the other hand, the reasons for lesbian discursive non-existence in the Polish context have more to do with a lack of reflection on these very elementary notions, as well as a basic historical, discursive and political shortage of feminist movements.

women, such as the German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth⁶⁰. Two Polish governmental positions worth noting in this context are the ombudsperson and the Government's Plenipotentiary for Equal Treatment. The former position is currently being filled by Adam Bodnar⁶¹, whose pro-women and pro-LGBT attitudes have been ridiculed and blocked by the government. The latter position, in turn, belongs to Adam Lipiński, who is a member of the dominant right-wing party and whose political and personal profile stands in stark contradiction to being an advocate for women and sexually non-normative citizens. By extension, it appears unlikely that any national action plans or programmes can be identified, be it with regard to gender equality or LGBTIQ* citizens. With all that being said, on 14 November 2019, a new leftist⁶² MP, Krzysztof Śmiszek⁶³ (the Spring party), formally filed a statement about instituting a 'parliamentary team for the equality of the LGBT+ community'.⁶⁴ As the MP explained, 'The tasks of the team will include cooperating with non-governmental organisations, legislative projects, and cooperating with similar organisations in other countries'.⁶⁵ As the left wing (the Left coalition/party) has only been present in the government for several months and the political agenda has been focused around the COVID-19 pandemic as well as the accompanying presidential election, the said initiative has been somewhat forgotten and is absent from the discourse and the media, which is why its actual power is yet to be determined. However, in light of the general priority to combat the overall social and legal unwillingness towards non-heterosexual persons, as well as a lack of legal regulations that would make non-heterosexual daily lives easier, it is unlikely that specifically lesbian* interests will be considered separately.

While the situation regarding non-governmental organisations and grassroots initiatives is better, it is still not to be compared with the visibility, activity and impact observed within other EU Member States. Firstly, there are several organisations that focus explicitly on women⁶⁶, but there is rarely any acknowledgement of lesbian* women within them. Above all, these organisations provide support in case of domestic or sexual violence; in a few cases, these same organisations also organise self-defence workshops, legal advice, support groups, yoga classes, etc. Legally, these organisations or initiatives are not protected and their activity is by no means perceived as an obvious good cause. Socially and politically, there are no visible campaigns or public media advertisements of such initiatives—and yet they experience repression. Between the years 2016 and 2018, the Ministry of Justice withdrew funding for a number of these organisations on the ideological grounds that their activity is too single-track, as 'they only serve aggrieved women'.⁶⁷ On the one hand, such a discourse illustrates a political approach whereby the issues of womanhood, gender dynamics, sexuality and domestic violence are not acknowledged as political, ideological or meaningful. On the other hand, it is regrettable that the promotion of such an undeveloped attitude is successful in that it produces ignorance and shuns any educational materials, resulting in unreflexive citizens who then get caught up in the vicious circle of upholding such a raw mentality anew. Importantly, most of the above-mentioned women-oriented organisations work on a voluntary basis or with help from good-willed individuals who donate private money on a one-off or regular basis. Within these organisations, however, there does not appear to be any debate on sexuality profiles, nor has any research or surveys been carried out focusing specifically

60 The emphasis is the author's. Although there is the Ministry of Family, Labour and Social Policy, its dealings are with general social policy, homelessness, senior citizens, or provisions for families with children. No acknowledgment or attention is given to women as a separate social group. What is more, the minister herself has very recently declared that Poland will soon renounce the Istanbul Convention (see the next part of the article).

61 He is a professor of law and a human rights activist; he was, among others, vice-president of the Helsinki Foundation for Human Rights.

62 The author of this case study has consciously used and kept the leftist or right-wing terms, as Poland represents very extreme and clear-cut political divisions and interpretations of reality, with a major liberal party being in-between and with no political options or variants that could be classified in less obvious or more hesitant and moderate ways.

63 He is a recognised lawyer and activist specialising in anti-discrimination and human rights.

64 Translation by the author

65 Translation by the author

66 For example, Fundacja Przestrzeń Kobiet, Fundacja Feminoteka, Centrum Praw Kobiet

67 See a radio report: <http://www.tokfm.pl/Tokfm/1,103454,20136470,centrum-praw-kobiet-bez-pieniedzy-od-rzadu-ekspertka-to-ideologiczne.html> [accessed: 01.12.2019]; translation by the author

on lesbian* needs and day-to-day struggles. On the whole, non-heterosexual women were and have been of no particular interest to the vast majority of these groups and initiatives, nor to the few recognisable feminists that Poland has on public or academic levels.⁶⁸

Secondly, Poland has two recognisable LGBT organisations; Lambda was launched in 1995, while Robert Biedroń, the politician, established the Campaign Against Homophobia (Kampania Przeciw Homofobii, KPH) in 2001. Lambda is rather quiet, but its website mentions educational programmes and psychological and legal support on its main profile. With regard to lesbian* citizens specifically, no day-to-day activity is visible. However, in 2012, the organisation launched a fund-raising campaign, whose character resembled the homophile movement's strategies from the US during the 1970s. The campaign, titled 'I am a lesbian', neutralised sexuality as an insignificant aspect of life— an aspect on a par with the smell of coffee or a book I am reading, that is the openly gay activist featured in the spot tries to convince the audience that her sexual identity is no more special than the type of coffee she prefers—and ends with the organisation's motto, namely the problematic 'Lambda helps gays and lesbians understand themselves'.⁶⁹ The other organisation, KPH, appears to be dominant and has been far more socially active, visible and progressive in its campaigns. It offers legal help and support groups for LGBT persons and their families, educational programmes and health campaigns. KPH also publishes relevant materials, surveys and statistics. The organisation formally employs 13 people with payroll transparency,

while its funds come from sponsors. KPH has strict rules of cooperation and, for instance, does not accept funding from political groups or individuals. With all that being said, no particular lesbian-focused actions can be named in their context despite their otherwise progressive approach.

Lastly, and as can be surmised from the previous points, no specifically lesbian* representation exists officially within the governmental or the mainstream non-governmental sector. However, it is necessary to properly acknowledge a new initiative called the SISTRUM Association, that is the Space of Lesbian* Culture, which was established in November 2017. This initiative is the only publicly lesbian-oriented initiative in Poland. Formally registered as a non-governmental association and consisting of four members/initiators, it focuses on the promotion of non-heterosexual women's culture. The initiative is involved in the production of lesbian* theatre and art, and it also offers a number of interviews and discussions relating to lesbian* culture and the question of lesbian sexuality. The SISTRUM Association is very active on the Internet and frequently updates its website;⁷⁰ worth noting is a most important Lesbian Inspira cycle of interviews.⁷¹ What is unique about this particular group is that it makes use of the European Lesbian* Conference's initiative,⁷² acknowledging and encouraging the fluidity of female sexualities and the ambiguity of the term lesbian.⁷³ Importantly, the group has a very bold manifesto, one resembling a classic lesbian-feminist stance like that of the Radicalesbians from the year 1970.⁷⁴ Progressive and needed as this group is, it is niche and lacks a platform to

68 See Olasik (2018) for the criticism of one-dimensional and openly non-intersectional feminism—and the existing gender studies programmes—in Poland. The author of this publication—and the case study herein—is the initiator and propagator of academic lesbian studies in Poland. Other than this, one notable example to the social lack of interest in women's non-heterosexual lived realities is a report from a feminist academic cooperating with Fundacja Przestrzeń Kobiet, which could be translated as the Space of Women Foundation. This foundation specifically researched the situation of lesbian and bisexual women who live in the country and in small towns; the report has a revealing title, namely *Invisible (for the) Communities* (translation by the author) (see Struzik, 2012).

69 See Olasik (2015) for the analysis of—and a controversial contribution regarding—the questionable status of that campaign. The video spot in question can still be seen at: <http://www.lambda.cyberon.com.pl/125-nowa-kampania-wizerunkowa-lambdy-warszawa?fbclid=IwAR2T5gBK0rv-jLb113XSq7hTLAdEyqIYrHpUmrMZyl4TpYmMYxqmVKfleOo>.

70 See: <http://sistrum.org.pl/>.

71 See: <http://sistrum.org.pl/projekty-siostrzane/lesbiska-inspira/>.

72 Indeed, their members were present at both EL*C events in 2017 and 2019.

73 In fact, at one point their Facebook page attracted much criticism from lesbian women for this approach.

74 Which is not to say that the mainstream of well-known American history in the matter of feminist developments is an example to follow and the only possible means of being progressive. The author of this case study merely refers to the outburst of lesbian visibility that a historical sequence of feminist actions and events in the USA brought about. See Yusupova (2014) (Yusupova 2014) for a much-needed example of an analysis that goes beyond the Western context and comparisons when re-investigating feminisms elsewhere. For the said manifesto by the Sistrum Association, see: <https://feminoteka.pl/lesbiska-inspira-manifest-instant/>.

speak up, which directly translates into a lack of funds; the several grant applications submitted by the group have been rejected, forcing the group to use private resources. All it has is a Facebook page and a local environment of allies, which is why it is hard for the group to provide substantial education or spread awareness beyond the already befriended circle. Still, the group's presence within the lesbian* community is very appropriate.

With regard to the Istanbul Convention,⁷⁵ Poland signed the document in 2012 but did not ratify it until 2015. With the radically right-wing government in power—the Law and Justice party, again, and the less meaningful but rather neo-fascist Confederation party alongside—the notion of ratification was fiercely debated, with mainstream politicians and the church trying to prove that the convention goes against the standard notion of family and the national interests, and that it is also against the Polish Constitution. Eventually, the ratification came as a result of pressure from the EU, on the one hand, and women, on the other. The convention's role and actual power, however, remains limited. In 2018, Amnesty International published a report pointing to a large number of legal and social obstacles that make it difficult to actually implement and carry into effect the convention in Poland, mainly due to the convention being in conflict with the Polish legal system and, thus, a lack of proper legal instruments on a local level (Amnesty International, 2018). These issues remain unresolved, making the ratified convention a fictional document to a great extent, while the right-wing stance and popular beliefs in the matter of women's rights and domestic violence appear to prevail.⁷⁶ The issue comes to light every now and then; on 14 May 2020, Marcin Romanowski, the Deputy Minister of Justice and Secretary to the Minister of Justice, stated the following: “The Istanbul Convention speaks of reli-

gion as a cause of violence against women. We want to renounce this genderist gibberish ratified by the Civic Platform [...]. The opinion of foreign countries is of no interest to us. For us, a sovereign national state takes priority’.⁷⁷ Bear in mind, the argument about religion is an irrelevant and rather diplomatic explanation, since the Law and Justice party is infamous for supporting the subordinate position of women and objecting to any attempts at protecting women's rights regardless of a reason, with frequent cases of the politicians themselves being accused of abuse and violence towards their wives as well as rather dubious moral standards with regard to the context of family and obligations within it. On a side note, immediately after ensuring the re-election of the PiS-affiliated president in July 2020, the Minister of Family, Marlena Maląg, announced that ‘Poland is preparing to denounce the Istanbul Convention’.⁷⁸

While altogether, it can be assumed—at least to a certain extent—that Poland's specific approach to the treatment of women and sexually non-heteronormative citizens today continues to be a result of the country's post-Soviet status and the years of being closed off from the discourse of human rights and equality that developed in most of the Western European countries at that time, this should not glorify the development of capitalism, which would justify a simple black-and-white juxtaposition and legitimise the West's imperial dimensions; such dichotomies are obviously problematic and must not be upheld.⁷⁹ However, it is not without reason that on 14 May 2020, the ILGA released the new annual Europe Rainbow Map, that is a report and an accompanying map according to which Poland has officially taken the last position among the EU Member States and the 42nd place out of all 49 European countries in the ranking.⁸⁰ Regrettably, this

75 More commonly referred to as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

76 Although this by no means speaks for the entire society, it is worth noting that the whole first three pages of a Google search, when entering the Polish phrase ‘konwencja stambulska’, come up with outraged and outrageous Catholic and radically right-wing voices about the danger of the convention and its correlation with the purported gender ideology. These come mainly from explicitly nationalist, Catholic and family-oriented organisations and media.

77 Translation by the author

78 For example, <https://www.tokfm.pl/Tokfm/7,103087,26139827,malag-polska-przygotowuje-sie-do-wypowiedzenia-konwencji-antyprzemocowej.html>.

79 Admittedly, however, this should not serve as the only explanation—or excuse, for that matter; the Czech Republic—another former Soviet satellite state—has had a similar timeline and yet managed to progress well in the realm of human rights, LGBTIQ* equality, and, overall social acceptance (see, for example, registered partnerships, anti-discrimination laws, gender identity recognition).

80 For the full picture and description of the Polish score, see: <https://rainbow-europe.org/#8653/0/0>.

accurately describes the level of the national discourse and social awareness whereby notions of hate speech and equity have not been recognised, for the complexities of gender and sexuality as elementary aspects of human identity have never been acknowledged in the first place. Furthermore, albeit somewhat on a side note, the development and role of the radically politically involved Catholic Church in its Polish variant cannot be underestimated, as years of this institution's influence have now resulted in its intense, audacious and arrogant day-to-day activity, supported by an open alliance with right-wing values, the media and policymakers. All in all, unwillingness towards—and the misunderstanding of—the grand idea of human rights⁸¹ is visible; furthermore, the social acceptance of the overall hostility and ignorance in this matter is still popular. The lack of historical reference, the absence of a solid and continuous feminist movement⁸² and a certain misunderstanding of the function of human rights and equity have all

directly contributed to the current situation, translating into the lack of a need to change the status of womanhood by regulating women's lives and rights.⁸³ By extension, no serious or separate discourse on behalf of lesbian* women has ever had a chance to develop, which is an outcome of both the country's political conditionings and the absence of diversified feminist discourses. With politically driven and church-driven abstract notions—such as gender ideology, LGBT lobbying and the sexualisation of children—being created and fiercely debated for the last several years, not to mention the victorious presidential campaign revolving around mottos such as 'LGBT are not people', it is mostly gay men that are mentioned or repressed in this context, with lesbians being a conventional linguistic addition rather than an actual object of interest.⁸⁴ Therefore, no direct or formal acknowledgement of lesbians* being part of Polish civil society—and national policies—can be identified in the context other than a general LGBT spectre to be eradicated.

5.2 Sweden (Julia Lagerman)

This case study on the needs of LGBTQI women in Swedish policies is based on publicly accessible material from

1. government authorities;
2. the Swedish Federation for Lesbian, Gay, Bisexual, Transgender, Queer and Intersex Rights (Riksförbundet för homosexuella, bisexuella, transpersoner, queeras och intersexpersoner rättigheter, RFSL), the largest NGO for LGBTQI issues in Sweden;
3. the National Centre for Knowledge on Men's Violence against Women (Nationellt Centrum för kvinnofrid, NCK), a research centre specialising in domestic violence assessment and prevention; and
4. the assessment of Sweden's implementation of the Istanbul Convention, published by The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO).

The results show that explicit mentioning of LGBTQI women's needs in policies and government-initiated research and national action plans occurs, but not as the sole or main focus.

⁸¹ The reader is again referred to footnote 1 in this case study.

⁸² And the historical absence of lesbian feminism, for that matter

⁸³ The main problem associated with womanhood in contemporary Poland is the question of abortion. Feminism in Poland has mainly been evoked in the context of the dominant right-wing party trying to introduce the total abortion ban on several occasions, as well as a recent attempt at banning sexual educators from doing their job. The famous Black Protests of 2016 and 2017 were a direct result of the former chaos, but they constituted merely a massive public counter-reaction to the possible legislation and political actions rather than a feminism-oriented initiative. Successful as they were, they did not provoke any discussion on the essence of womanhood or the fluidity of women's sexuality.

⁸⁴ Every now and then, there is an exception to this rule, for example in the context of a couple of lesbian mothers telling their story in a progressive newspaper. See, for example: <https://wyborcza.pl/duzyformat/7,127290,23447024,rodzina-lgbt-na-cenzurowanym-dwie-matki-z-wyboru-codziennie.html>.

The HBT(Q) acronym used in Swedish policies and its historiographical context

HBT(Q) stands for homo, bi, trans (and queer) persons and is a commonly used acronym in Swedish public policies and elsewhere. The terms do not separate between lesbians and gay men but instead define both as homosexuals or bisexuals. Lesbian⁸⁵ as an identity category or description occurs but is uncommon, especially in government policies. The assumed gender neutrality of the term homosexuality can be traced in Swedish law prohibiting sexual behaviour, which, like other Scandinavian countries, did not separate between men and women but was defined as banning ‘fornication against nature’ (Rydström & Mustola, 2007, page 21). The law, shaped by Christian morality, was abandoned in 1944 when homosexuality was redefined as a mental illness. As an illness, male and female homosexuality was understood according to Magnus Hirschfeld’s third-sex model (Rydström & Mustola, 2007, page 15) and by that definition both men and women appeared in Scandinavian and Swedish legal discourse (Rydström & Mustola, 2007, page 37). While the terms HBT and HBTQ are the most commonly used terms in policy and elsewhere, the exclusion of a letter for lesbians (L) has been criticised, followed by suggesting using LHBT(Q) instead of the more inclusive term (NCK, 2009, page 12; Rosenberg, 2006). This has not, however, been utilised in any of the documents included in this case study.

Government initiatives and national action plans for needs of HBT(Q) persons

There are no government organisations or authorities that work exclusively with lesbian or HBTQ rights in Sweden. Instead, different authorities have been given responsibility for working towards equal rights and opportunities for people in Sweden regardless of their sexual orientation,

gender identity or gender expression (Regeringskansliet, 2018a). The following authorities are classified as HBTQ-strategic authorities, meaning they are obliged to work towards LGBTQ equality as part of and alongside their other missions:

- The Equality Ombudsman (Diskrimineringsombudsmannen);
- The Swedish Agency for Youth and Civil Society (Myndigheten för ungdoms- och civilsamhällesfrågor);
- The National Board of Health and Welfare (Socialstyrelsen);
- The Public Health Agency of Sweden (Folkhälsomyndigheten);
- The National Culture Council (Statens kulturråd);
- The Swedish Migration Board (Migrationsverket);
- The National Agency for Education (Statens skolverk); and
- The Swedish Gender Equality Agency (Jämställdhetsmyndigheten).

In 2014, of HBTQ rights and equal opportunities were assigned as part of the above authorities’ mission, with the three latter authorities being included as part of the government-initiated strategy for equal rights and opportunities regardless of sexual orientation, gender identity and gender expression in 2018 (Regeringskansliet 2014, page 1). The action plan focuses on different areas in society regarding discrimination and violence, young HBT persons, health and health care, family, culture and civil society, and divides the strategic responsibility among the government organs listed above (page 20). Generally, the document does not distinguish at all between the different needs of different HBT persons. The emphasis lies instead on stating that sexual orientation or gender identity may negatively impact individuals’

85 Lesbian translates to lesbisk or lesbiska in Swedish. The word is not a noun but an adjective, which according to Rosenberg (2006, page 21) makes it more descriptive of a person and implies less subjectivity than the English noun lesbian.

lives. The document, however, mentions the importance of acknowledging differences in the health and living conditions between homosexual and bisexual women as well as homosexual and bisexual men when executing the strategies (page 19); furthermore, the document also takes into consideration that different genders and sexual orientations are susceptible to domestic violence in honour-related violence (page 43).

Aside from governmental institutions' responsibilities, the non-government organisation RFSL, founded in 1950, works towards equal rights for HBTQ persons and has its work referenced in government policies. RFSL also initiates, supports and disseminates research about HBTQ rights, which covers the whole or parts of LGBTQ identities represented by the organisation. An ongoing project, which is funded by the Gender Equality Agency, concerns assessing methods for trans-inclusionary gender equality work, aiming at the increased inclusion of women, men and people who do not fit in the two-gender model in gender equality policies (RFSL, 2019), and defining cisnormativity as a problem in current policies. Gender equality policies by government authorities have also been suspect to a structural critique in feminist scholarship, according to which the policies build upon and reproduce heteronormative, nationalist and capitalist norms. The gender equality embraced in Swedish policy defines gender equality as a 'national goal' benefitting all of society (de los Reyes, 2016, page 33), as expressed by the Swedish Gender Equality Agency:

Equality between women and men is a fundamental constitutional norm and an explicit policy objective in Sweden. Gender equality issues became a separate policy domain as early as the 1970s and have had a central position in the public debate ever since. The ultimate aim of Swedish gender equality policy is for women and men to have the same opportunities, rights and responsibilities in all areas of life (www.jamstalldhetsmyndigheten.se).

According to de los Reyes (2016), the binary understanding of gender inequality plays down antagonisms and power relations between women (de los Reyes, 2016, page 33). Gender equality policies in Sweden have also been criticised for reinforcing the nuclear family as a norm, whereby the state is the actor negotiating relations between men and women in domestic heteronormative families. Furthermore, the embracement of gender equality also reproduces nationalist notions of Swedish modernity, which assumedly serves as an example for migrants and non-European nations (Martinson, Griffinn and Nygren, 2016; Nygren, Martinsson and Mulinari, 2018). The Swedish state as an arena for negotiating gender relations in policies has thus acknowledged the private as political but without challenging heteronormativity. This explains why policy work regarding LGBTQI women today consists of broadening existing policy work, including LGBTQI women in policies originally restricted to cis⁸⁶sexual and heterosexual women.

Legal and political changes regarding bodily integrity for LGBTQI women

There are two recent examples of policy initiatives and legal changes that affect LGBTQI women, both concerning domestic issues. The first example is the assessment and amendment of family and parent laws, while the second example concerns strategies about domestic violence. The state's public report on new rules about fatherhood and parenthood (SOU 2018:68) contains research and policy advice for how to make parenthood laws more equal. It also provides ethical judgments regarding sperm and egg donation, parenthood for someone having changed their legal gender, surrogacy motherhood and the confirmation of a parent or parents after assisted pregnancies. The latter issue particularly concerns women in same-sex marriages who have become pregnant through sperm donation. According to

86 Term for people who are not trans*

current (December 2019) law, a man in a heterosexual marriage is presumed to be the parent of his spouse's child, whereas no such presumption is currently⁸⁷ made for a woman whose spouse gives birth to a child, making it more difficult for lesbian couples than for heterosexual couples to gain joint parenthood after assisted pregnancies (SOU 2018:68, page 368). The investigation suggested removing this difference on the condition that the sperm donor is known. Anonymous sperm donation is considered unethical in the report, as children have the right to know their biological origin (SOU 2018:68, page 367). What the example highlights is the gender equality approach to the needs of LGBTIQ women in Swedish policy, since the needs of lesbian and trans parents are expressed as needs not to be discriminated against in law because of their sexual orientation, gender identity or gender expression. The needs of lesbian parents and trans parents are compared to the needs of other parents in similar positions but with different privileges, such as a presumption of access to fatherhood. These needs are covered as part of the broader legal framework for how to ethically handle parenthood outside of heteronormativity, not as part of a strategy for LGBTIQ women's needs. The needs of LGBTIQ women in policy are accordingly defined as being the need for inclusion in current legal and guideline frameworks.

The second example concerns the ratification of the Istanbul Convention and LGBTIQ women's needs in the prevention of gender-based violence. In 2017, as part of the Swedish government's commission to Uppsala University, the National Centre for Knowledge on Men's Violence against Women (NCK)⁸⁸ authored a research report summarising scientific publications on violence against HBTQ persons (NCK, 2018). The research centre previously surveyed publications on domestic violence in same-sex relationships (NCK, 2009). They also provide educational and informational material for social service and health care professionals (GREVIO, 2019, pages 26, 31). The

report about violence in same-sex relationships situates domestic violence within theories of power relations, such as intersectionality, patriarchy, heterosexism and homophobia (NCK, 2009). Both reports also refer to empirical research, summarising current available knowledge about violence towards LGBTIQ people (NCK, 2009, 2018). When the NCK raises survey results reporting experienced violence and sexual assault, it mentions the differences between non-heterosexual women and heterosexuals, concluding that non-heterosexual women are more likely to experience violence in close relationships and sexual violence. Bisexual women in particular are likely to be more susceptible to domestic violence than men and homosexual and heterosexual women. The NCK also concludes that partner violence towards trans persons is relatively high and that societal homophobia, biphobia and transphobia may be used by abusive partners (NCK, 2018, page 62). Thus, LGBTIQ women's needs are separated from those of straight women and other LGBTIQ identities in research reports about gender-based violence.

In the 2018 report (page 8), the NCK mentions the Istanbul Convention as part of political and legal changes that took place between the 2009 report and the 2018 report. In 2011, Sweden signed the Istanbul Convention and ratified it in 2014; then Sweden assessed it. In 2019, the Istanbul Convention was later also assessed by the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), who gave praise to efforts of gender mainstreaming in Swedish authorities but stated that the work on violence against women 'does not always extend systematically to national minorities, women with disabilities, migrant women and other women exposed to intersectional discrimination' (GREVIO, 2019, page 7). Especially, the vulnerability of Sami, Roma and migrant women together with women substance abusers is not addressed sufficiently, despite outspoken intentions to do so, indicating gaps between goal and practice for non-discrim-

87 A parenthood presumption, corresponding to the fatherhood presumption, is planned to be included in the law by 1 January 2021. The change will make wedded partners parents to a child by default on the condition that the identity of the sperm donor is known.

88 Swedish title: Nationellt centrum för kvinnofrid

inatory protection against gender-based violence (GREVIO, 2019, pages 7, 13–14, 59). The GREVIO report considers the needs of the said minority groups of women most acute, although the report does not explicitly mention lesbian, homosexual, bisexual, trans or intersex women either in minority groups or elsewhere.

Relatedly, the state's public report covering violence towards women and honour-related violence and oppression positions LGBTQI women's hardship within gender and honour-related violence. The purpose of Swedish gender equality is 'to work towards an equal relationship between men and women as groups, and its responsibility concerns the violence men expose women to' (SOU 2015:55, page 47), which may exclude LGBTQI women by assuming heteronormative partner constellations and binary gender formations. The state's report, therefore, does not include LGBTQI rights as an issue covered within the gender equality objective. Instead, the report claims to have a broader scope than the gender equality objective. The solution to having a broader scope in the action plan recognises the limitations of the gender equality objective when addressing gender-based violence and domestic violence (SOU 2015:55, page 51). Both GREVIO and the state's public report from 2015 repeat a number of the problems raised in feminist scholarship about gender equality policies, which is that the nation and the middle-class heterosexual family remain the starting point or the norm for gender equality work. Therefore, problems experienced by LGBTQI women and women who are vulnerable due to their social positions are examined as problems of cisnormative and heteronormative positions.

Swedish policies adopt a gender-neutral stance towards issues concerning discrimination, family law and domestic violence. Due to this stance, initiatives that affect the lives of LGBTQI women promote equality regardless of gender and sexual

orientation rather than any special minority group. Furthermore, the needs of LGBTQI women are not summarised in separate plans or policies. The needs are only acknowledged when issues affecting them are identifiable within reports on women's rights and HBTQ people's rights. The objectives of the policies echo those expressed in the government policy on gender equality (www.jamstalldhetsmyndigheten.se). They emphasise either men's violence towards women or people being denied rights and opportunities in society based on their gender, sexual identity or sexual expression.

There is a consensus in Swedish politics about gender equality being a principal issue (Nygren et al., 2018), but the strategies have received criticism for their heteronormativity, cisnormativity and exclusion of minorities. All policies concerning LGBTQI women's needs currently define them as an extension or addition to either HBTQ rights or gender equality policies. Attention is paid to inequality in current policy and legal frameworks but not to an in-depth assessment of the needs of LGBTQI women. LGBTQI women are considered included in the third-sex label, that is HBT(Q), a label that is included in policies as complementary to other issues. While there is agreement on the importance of acknowledging the needs of LGBTQI women, this is rarely the primary focus. Instead, LGBTQI women make up a further subcategory of an already existing subcategory—either HBTQ or women—in broader policy work. Consequently, it is worth repeating the structural critique of Swedish gender equality policies. These policies are fundamentally based on heteronormativity and cisnormativity, which affect the policies covering LGBTQI women's needs by defining them as subcategories or gaps in the existing policies. This complementary approach may keep the needs of LGBTQI women invisible if they do not appear in direct relation to either hetero women and ciswomen or other HBTQ people.

5.3 Greece (Anna Carastathis)

There are no government institutions in Greece that focus explicitly on lesbians or other groups under the LGBTIQ umbrella. The General Secretariat for Gender Equality, recently renamed the General Secretariat for Family Policy and Gender Equality and relocated to the Ministry of Labour and Social Affairs, is the government agency that deals with gender equality, which is understood in binary terms as equality between men and women. Nowhere in this government agency's objectives are lesbians specifically—or gender and sexual minorities generally—mentioned. In its National Action Plan (2016–2020), the General Secretariat for Gender Equality 'emphasises the categories of women who are subject to multiple discriminations—not only on the basis of gender but also on the basis of vulnerability (people with disabilities, incarcerated women and women released from prison, women addicted to drugs, etc.)—and the danger in the context of the specific situations they experience (long-term unemployed women, Roma women, women refugees, heads of single-parent households, etc.)' (ΓΓΙΦ, 2016: 9–10, author's translation). In this context, the above-mentioned National Action Plan defines multiple discrimination as potentially inclusive of sexual orientation and gender identity and characteristics, yet nowhere in the National Action Plan are these axes of discrimination considered or provisions for their elimination made. The general secretariat operates a 24-hour telephone line and 15 counselling centres, mainly in urban centres, for women facing interpersonal gendered violence, sexual assault, trafficking and sexual harassment, and runs 21 shelters for women fleeing domestic violence. These counselling centres opened in 2013 and have been operating since then (see Βαϊτσοπούλου, 2017). With the exception of the counselling centre in Athens, which has been operating since 1988, the others were opened in the period 2012–2014 in the context of the National Action Plan for Substantive Gender Equality 2010–2013.

In 1994, also under the auspices of the Ministry of Labour and Social Affairs, the Research Centre for Gender Equality was founded. This centre undertakes policy research and drafts action plans

with the objective of influencing national policy and promoting gender mainstreaming and the elimination of gender discrimination—understood as discrimination against women—as well as other problems women face in their family, educational, professional, social and political lives. Amongst its completed research projects, the centre counts the 'Prevention and Combating of Sexism and Discrimination in Issues of Gender Identity and Sexual Orientation', which was financed by the National Strategic Reference Framework and ran for 26 months from 2014–2018. In this context, the Research Centre for Gender Equality ran a series of five workshops in Athens and Thessaloniki under the racialised moniker 'Not everything is black and white', which targeted journalists and other professionals working in mass media in order to promote gender equality and the combating of sexism and discriminations in issues of gender identity and sexual orientation. At present, the centre's website does not list other deliverables or results which correspond to the project's objectives, that is creating an advisory committee for ensuring the interdisciplinary approach of the project; conducting research on discriminations based on gender identity, sexual orientation and on the stance of mass media regarding issues of sexism and gender discrimination, including the creation of sensitivity training materials; and developing networking, training and sensitisation targeting mass media professionals and civil society organisations. Nowhere in the project description are lesbians—or any other groups subject to the named discriminations on the basis of sexual orientation and gender identity—explicitly mentioned.

In the context of a constitutional review process, lawmakers recently voted against an amendment to Article 5(2) of the constitution. The proposed amendment concerned equal protection that would prohibit discrimination on the grounds of sexual orientation, gender identity, sexual characteristics and disability, in addition to the grounds already named in the article, which reads: 'All those in the Greek territory enjoy the full protection of their lives, their honor and their freedom, without distinction of nationality, race, language

and religious or political beliefs. Exceptions are permitted in cases provided for by international law.' On 25 November 2019, incidentally, the International Day for the Elimination of Violence Against Women, 170 members of parliament voted against the amendment, 120 voted in favour, while nine abstained and three were absent (Vouliwatch, 2020). The vote ran counter to the spirit of the EU Council's still unrealised directive (2000/78/EC) for the development of a general framework concerning equal treatment in employment and occupation, and also counter to the purported European values in Article 21 of the Charter of Fundamental Rights of the European Union (Σωτηρόπουλος, 2019a, 2019b). In Greece, LGBTI+ people are considered the group that is subject to the second highest rate—after migrants and refugees—of discrimination, harassment, hate speech and violence according to the Racist Violence Recording Network (see Αντωνόπουλος, 2019).

It is not unusual for state representatives—including Greek Orthodox Church officials who are public employees due to the non-separation of church and state powers upheld in this round of the constitutional review—to engage in precisely those acts of homophobic and transphobic discrimination that the majority of lawmakers refused to prohibit. Indeed, after the passage of the so-called antiracist law in 2014, criminalising hate speech directed against a person or group on the basis of 'race, colour, religion, genealogical descent, ethnic origin, sexual orientation, gender identity, or disability' (Ελληνικό Κοινοβούλιο, Number 4285/2014), the Archbishop of Kalavryta Amvrosios (legal name Athanasios Lenis) was, on appeal, found guilty of hate speech, incitement to violence and abuse of religious office (Εφσον, 2019) for calling on Christians 'not [to] approach them [homosexuals]! Do not listen to them! Do not trust them! They are the damned of society! It is their right, of course, to secretly—privately—live as they want! But such disgraced people cannot publicly defend the passions of their soul! Our Greece is run today by godless people! Well, spit on these disgraced people! Condemn them! Blacken them! They are not human beings! They are freaks of nature!' (translation by the author, quoted in Carastathis, 2018: 283). The decision has since

been appealed to the Supreme Court, which, at the time of writing, must still deliver its final judgment in the case. These statements were made in the context of the public debate surrounding the extension of civil partnerships, which have existed since 2008 in Greece but only for heterosexual partners, to include same-gender partners. In *Vallianatos and Others v. Greece*, the European Court of Human Rights ruled that civil union law (3719/2008) violated Article 14, which prohibits discrimination, and Article 8, which guarantees the right to privacy and family life, of the European Convention for Human Rights. Following this ruling, civil partnerships were extended to same-gender couples (Ελληνικό Κοινοβούλιο, Number 4356/2015). However, this extension does not eliminate inequality and discrimination, particularly inequality and discrimination concerning parental rights and obligations, which are recognised for heterosexuals but denied to same-gender couples, and transitive residency and citizenship rights affecting partners, parents and children who are non-Greek nationals or who have been individually denied legal status (see Carastathis, 2018: 283–284).

While in the latest round of constitutional revision an amendment to Article 21 (1) establishes '[t]he family as the foundation of the maintenance and promotion of the Nation, and marriage, maternity and childhood come under the protection of the State', it is clear that lesbians in particular and LGBTI+ people in general are excluded from legal and hegemonic social definitions of family, marriage, maternity and childhood in Greece; in the words of two anthropologists who have extensively researched lesbian kinship and reproduction in Greece, lesbian mothers are considered a contradiction in terms (Καντσά and Χαλκίδου, 2014). For one, reproductive technologies are not available to lesbian parents, although they are available to unmarried women on condition that they do not disclose a social mother (Ιορδανίδου, 2015: 18–19/24–25). A law passed in 2002, which was amended in 2005, still restricts medically assisted reproductive technologies to married and unmarried heterosexual couples and unmarried single women (Number 3089/2002; Number 3305/2005). Recently, in 2018, lesbian and gay people who are registered as civil partners were

permitted to act as foster parents but not to adopt children. Moreover, the binary gender system—which operates through the compulsory assignment of gender at birth and through the medical normalisation of intersex infants' and children's bodies that are seen to defy the binary gender system in line with heteronormative expectations of reproductive and sexual function—goes uncontested in Greek state institutions (see Pikramenou, 2019). In 2017, in a positive development, parliament passed a law (Number 4491/2017) reforming the process of legal gender recognition, which eliminates psychiatric diagnosis and forced sterilisation—or any medical procedure or treatment—as prerequisites. The new process, in which a judge is given the power to decide whether or not to grant the recognition of a person's gender identity in contradistinction to the person's gender assigned at birth, is only available to unmarried citizens or legal residents over the age of 17 who can afford the fee (€1,500) as well as a lawyer to represent them in the proceedings. Whether non-binary identities can be legally recognised is still being tested (IEfimerida, 2018). Moreover, while the law on legal gender recognition stipulates that the legal recognition of gender transition should not affect parental rights, the said law also requires compulsory divorce as a precondition of legal recognition and precludes the amendment of the birth certificate of any children to reflect the parent's legally changed name. In practice, therefore, trans reproductive and parental rights are not safeguarded. This is shown by a case currently being tried in civil court. The case involves a transgender woman who has lost de facto custody of her child and may lose legal custody as well (Αντωνόπουλος, 2019b). The parliamentary debate and press coverage that surrounded the legal gender recognition bill being voted into law was rife with transphobic and homophobic hate speech, of which church patriarchs were also a major exponent (see Γαλανού, 2017). Moreover, in the absence of systematic studies, anecdotal evidence indicates that the realisation of the process has been slow for the majority of people seeking legal recognition of their genders.

Civil society groups

In Greece, there are several non-governmental organisations, not-for-profit organisations, grass-roots organisations and self-organised collectives that mobilise for the creation of community support networks and the recognition of lesbians' rights, usually as part of LGBTI+ people's rights. Of those that are explicitly by and for lesbians, the Lesbian Organisation of Athens, founded in 2000, is the oldest. It runs weekly face-to-face meetings and discussions along a consciousness-raising model, organises parties for lesbians, and until recently, published the magazine *Νταλίκα/Dalika*, which (literally) means lorry and (figuratively) dyke. As a self-organised group, the organisation was not funded by state or international institutions but relied for its survival on funds raised by its social and publishing activities as well as its members' contributions. In 2016, its capacity appears to have been severely diminished by its departure from the space it shared at the Migrants' Social Centre (Στέκι Μεταναστών/Steki Metanaston) after incidents of sexual harassment and assault against a migrant woman that took place on the premises were met with indifference and evasion by the male-dominated majority of the Assembly (ΛΟΑ, 2016).

There are numerous organisations that have formed since the early 2000s, including the Homosexual Lesbian Community of Greece (OLKE) founded in 2004 and the Positive Voice (HIV+ organisation) founded in 2009. Annual pride parades take place in three cities in Greece and are organised by the non-profit organisations Athens Pride (2005) and Thessaloniki Pride (2012), and the self-organised collectives of Patras Pride (2016) and RADical Pride (2015). One of the most active organisations, Colour Youth, formed in 2011, is connected to the European-level organisations International Lesbian, Gay, Bisexual, Transgender, Queer & Intersex Youth and Student Organisation (IGLYO), ILGA-Europe (the European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association) and Transgender Europe. ILGA-Europe held its annual conference in Athens in 2015. 'Tell Us', a project of recording incidents of violence and discrimination based on gender identity, gender expression and/or sexual orienta-

tion and the provision of free legal and/or psychological support to survivors who report such incidents, is Colour Youth's most extensive project and has been running from 2013 to the present. This project was funded by Open Society Foundations from 2016 and by an EEA grant from Iceland, Liechtenstein and Norway from 2014–2015, which was administered via the Bodossaki Foundation. In addition to the aforementioned organisations, lesbians lead or are active and represented in Rainbow Families (NGO, since 2012), Rainbow School (since 2009), Orlando LGBT+ mental health without stigma (since 2017), LGBT People with Disabilities (since circa 2015), Thessaloniki Rainbow Youth (since 2012), as well as recently disbanded queer collectives, such as Queericulum Vitae (2004–2015) and Queer-Trans (circa 2012–2015). Since 2015, four organisations—OLKE, Athens Pride, Thessaloniki Pride and Positive Voice—have been collaborating on running a helpline (11528 'At Your Side') now funded mainly by the Stavros Niarchos Foundation (from 2015–2016 it was funded by the NGO Solidarity Now) with the moral support of the municipality of Athens and the region of Attiki.

Since 2015, the onset of what has been discursively constructed as the refugee crisis in/of Europe, a number of collectives have formed in solidarity with displaced LGBTI+ people living in Greece: LGBTQI+ Refugees Welcome Athens, Eclipse/Al Kusus Refugees Thessaloniki (which is in the process of starting a housing project for displaced LGBTQI+ people in Thessaloniki) and Lesbos LGBTIQ+ Refugee Solidarity. In July 2018, the Social Cooperative Enterprise Emantes-International LGBTQIA+ Solidarity was formed by active members of the Athens Collective. The cooperative runs a fresh food distribution project, provides psychosocial support to LGBT+ refugees and migrants, facilitates access to education and legal support, and attempts to mitigate discrimination on the labour market by creating employment for LGBT+ refugees. Gender Panic Ink, a project of Avelo Space in central Athens, is a LGBTQIA+ refugee, immigrant and diasporan collective that upcycles pre-loved T-shirts and screen prints them with messages and slogans that celebrate queer life in all its colours, with the proceeds going to the collective members.

On 21 September 2018, gay and HIV+ activist, journalist and drag performer Zak Kostopoulos, also known by his drag persona Zackie Oh!, was brutally murdered. He was allegedly murdered by two civilians with connections to extreme right organisations and several police officers and emergency medical responders, in broad daylight in the central square of Athens (Omonoia), while approximately 60 bystanders looked on and only two tried to intervene. The circumstances leading to his murder are still being investigated, as Kostopoulos' family are pursuing a criminal case against his alleged attackers, supported by the locally organised campaign Justice for Zak/Zackie. Amnesty International has also supported the call for justice sounded by LGBTI+ activists, feminists and allies with an international action campaign. The horrifically brutal attack—aspects of which have been reconstructed by Forensic Architecture founded in 2019—was recorded by several bystanders on their mobile phones who then, in certain cases, sold or released the video to mass media. The horrific brutality of the attack was matched by the staggering inaction of bystanders and the impunity—to date—of state actors, that is police and emergency medical responders. Moreover, the victim—and by extension the communities to which the victim was seen to belong—was subjected to dehumanising narratives post-mortem in the media, which tried to construct his alleged killers as innocent family men acting in self-defence.

According to a recent Eurobarometer poll in October 2019, a majority (53 per cent) of people living in Greece disagree with the statement, 'There is nothing wrong with a sexual relationship between two people of the same gender'. The rate in Greece is twice the average rate of 24 per cent prevailing in the EU. Organisations advocating for lesbians working in this context have to battle deeply seated heteronormativity, homophobia and transphobia in their intersecting manifestations with racism, misogyny, ableism, class exploitation and ageism.

Istanbul Convention

Greece ratified the Istanbul Convention in April 2018 (Number 4532/2018). Despite this, in the spring of 2019, the government—in tension with the consent-based definition of rape outlined in Article 36 of the Convention—attempted to pass a definition of rape that excluded the notion of consent. The government tried redefining rape via an omnibus bill to amend the Criminal Code. Feminist organisations in civil society

widely protested this proposed amendment. The Assembly ‘Without Consent It Is Rape’, instigated by the feminist anti-violence collective *Kamía Avoχή/Kamía Anoxí* (No Tolerance) as well as other women’s and feminist groups and Amnesty International, succeeded in a last-minute rewriting of the specific article (Article 336) by lawmakers; with the passage of the bill, the definition of rape now aligns with the dictates of the Istanbul Convention.

5.4 Germany (Stefanie Boulila)

Public institutions and action plans

Germany has a variety of government institutions that address LGBTQ discrimination on a federal, state and local level. On a federal level, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) established an LGBTI section named ‘Same-Sex Lifestyles, Gender Diversity’ in 2014. The section coordinates questions and tasks regarding gender and sexual diversity within the national government. The section further responds to queries from federal states and civil sector organisations and is active on an international level. The office facilitates capacity building, commissions research,⁸⁹ organises best-practice exchanges and supports an information platform (regenbogenportal.de) as well as a variety of projects with NGO partners.

Over the years, the office has intensified its work on lesbian visibility. In 2016, the BMFSFJ established a partnership with the Lesbians and Ageing Umbrella Association (Dachverband Lesben und Alter) in order to strengthen the civic participation of elderly lesbians. The partnership’s objective is to develop a sustainable organisation that acts as an advocacy group for elderly lesbians. In 2020, the BMFSFJ will organise an international conference on the current state of LGBTI*/gender diversity with a focus on rainbow families and the situation of lesbian women*. To prepare for the conference, the ministry organised an expert

workshop on lesbian inequalities in Europe in November 2019. The ministry furthermore commissioned two reports: a community report on lesbian organising in Europe and this academic report on the potential of lesbian visibility for European equality policies.

The Federal Anti-Discrimination Agency, though not explicitly dealing with lesbians, provides legal counselling and information on discrimination with regards to any characteristic that is protected by the General Act on Equal Treatment (*Allgemeines Gleichbehandlungsgesetz, AGG*). This includes gender and sexual orientation as well as disability/chronic illness, racism and religion. Moreover, the agency publishes reports and compiles information for specific groups, such as refugees.

There is no LGBTI action plan at federal level, but most states have action plans. In terms of federal action plans, LGBT rights organisations have been pushing for a national action plan against homophobia and transphobia. In 2019, the Green Party submitted a motion in the German parliament to implement an action plan on a national level. The main objective of the action plan is the improvement of social and political participation of LGBTI persons. The motion further demanded that the action plan should be developed with the close participation of LGBTI organisations. The motion was particularly welcomed by the Lesbian and Gay Federation in Germany (LSVD)—the country’s

⁸⁹ This report was commissioned by BMFSFJ’s Same-Sex Lifestyles, Gender Diversity Section

largest LGBT rights organisation. The LSVD particularly stressed that a national action plan should have clear goals and sufficient resources. It also stressed that a dialogue with civil society actors and institutions should be sought in the development of the action plan.

The motion lists a range of themes that should be considered for the action plan. The themes include the strengthening of LGBTI civil sector organisations and empowerment initiatives, remembrance work, diversity in the workplace, sport, elderly LGBTI persons, research, security and justice, education and curricula, youth work, health, media, asylum, international cooperation and law. The motion explicitly lists lesbian visibility as an area the action plan should address. It problematises that lesbians lack representation in media and public culture and also in leadership positions. The motion deems this representation particularly important for the identity building of young lesbian and bisexual women.

The motion mentions intersectionality as a framework for analyses and measures. However, the motion does not clarify what intersectionality entails. The security section of the motion also calls for intersectional safe spaces and shelters that cater to disabled persons and people of colour. Although LGBTI people of colour are mentioned, the reference is not linked to a problem analysis or measures beyond the call for safer spaces and shelters. Instead, the motion reproduces the policy responses that were criticised in chapter 4.3 of this report. The motion falls short in its self-prescribed intersectional outlook by not accounting for LGBTI people of colour's subjection to racism within and outside of the LGBTI community. Instead, the motion reproduces the previously criticised one-sided story of immigrant homophobia by explicitly mentioning that LGBTI rights should be included in integration courses and thus suggesting that immigrants are prone to homophobia while Germans are inherently anti-homophobic.

Another relevant, already existing action plan that includes LGBTI rights is the First National Action Plan 2017–2019, which is part of Germany's participation in the Open Government Partnership. One of the outputs was the launch of the

knowledge network for lesbian, gay, bisexual, transgender and intersex people. The online platform will provide citizens with information about gender diversity and same-sex relationships. It will collect all relevant information in one place, focusing on legal provisions and institutions that provide support and advice.

Most federal states of Germany have working action plans against homophobia and transphobia. In 2019, the LSVD criticised Bavaria for not following suit. The following evaluates how a number of these federal state action plans explicitly address specific lesbian needs as well as intersectional needs. The analysis bases on an overview collated by the Change Centre Foundation (2015). Furthermore, the state of Hesse's action plan was analysed for its intersectional sensibilities because it reported a high number of queer people of colour (Hessian Ministry for Social Affairs and Integration, 2017). The 2019 measures of the Berlin action plan were also considered, as it is one of the most recent collections of measures (Senate Department for Justice, 2019).

All action plans mention lesbians as part of the LGBTIQ acronym. However, a few action plans highlight particular areas for intervention as the following overview shows. Firstly, several plans include suggestions to fund projects and measures that focus on lesbian women* or that create participatory spaces for lesbians (Rhineland-Palatinate, Lower Saxony, Berlin). One action plan reported a community call for lesbian and women housing projects that provide affordable housing (Lower Saxony). The 2019 Berlin measures noted that the Berlin Senate Administration should create intergenerational housing projects for elderly lesbian women* and disabled lesbians.

The state of Hesse funds an anti-violence counselling service for lesbians, trans and queer persons. The advice service 'gewaltfreieben' (Living FREE of violence) was operated on a voluntary basis until it was funded in 2016. Other action plans also reported that they want to intensify their work in the area of violence against lesbians and trans* women (Berlin, Saxony-Anhalt). The 2019 Berlin measures promised a study on violence against lesbian and bisexual women in 2020.

Furthermore, certain plans state that there is also a need for professionalisation, recognising that services for lesbians are mainly provided by volunteers (Lower Saxony, Rhineland-Palatinate). Several state action plans noted that the situation and needs of lesbians should be explicitly addressed in the training of professionals who engage with lesbians in their professional practice. This includes lawyers, social workers, therapists, care workers, medical personnel and teachers (Lower Saxony, Rhineland-Palatinate, Berlin, North Rhine-Westphalia, Saxony-Anhalt). The Lower Saxony Plan declared that the state should provide its municipalities with a model that helps them integrate the needs of lesbian women* into elderly care.

In the area of workplace equality, an action plan also proposed the introduction of affirmative action for lesbians in the form of lesbian quotas (Lower Saxony). The 2019 Berlin measures announced the development of an intersectional mentoring programme that aims to support lesbian and trans persons in the workplace. With regards to research, there was concern about the marginal position of lesbian issues in university teaching and research, with the particular observation that homosexuality often exclusively refers to men, as well as concern about the lack of institutional recognition that scholars who study lesbian issues receive (Mecklenburg-West Pomerania, Lower Saxony). The action plan of Lower Saxony further proposes to institutionalise and support lesbian studies, while the Hesse action plan calls for more historical research on the persecution of lesbians between 1945 and 1985. In 2018, a study was published on the persecution of lesbian and gay persons in Hesse between 1945 and 1985 (Plötz and Velke, 2018). Berlin also announced a study on lesbian lives during the German Democratic Republic for 2020.

In the area of family equality, the Lower Saxony action plan noted that there is a need for specific support for women in same-gender relationships who have children from previous heterosexual relationships. The plan also noted that medical doctors should be trained to provide lesbian couples with reliable advice concerning access to parenthood. Further issues that were raised in the

area of health included the creation of a centre of competence for women and health that also addresses lesbian health issues (North Rhine-Westphalia), and the production of a brochure on lesbian health (Lower Saxony). Other action plans proposed capacity building in the area of lesbian health and migrant women's health.

Although the Lower Saxony action plan problematises lesbian invisibility, most measures concerning the promotion of LGBTIQ culture do not reflect on the inequality of representation between different groups in the LGBTIQ community. The 2019 Berlin measures have a separate set of actions to combat lesbian invisibility. These actions include an award for lesbians who contribute to visibility, mainstreaming the problematic of lesbian invisibility in all areas of action and creating a platform that aims to make recommendations on how to improve lesbian visibility.

In view of the national action plan, there should be an analysis of how the states' action plans have delivered on the lesbian issues that the states identified and what concrete actions were taken with what effects. Most action plans recognise the interdependent intersection of sexuality and age by explicitly addressing the needs of young people and elderly LGBT persons; however, most federal state action plans lack a strong intersectional analysis and concrete measures that account for the multiple discriminations faced by queer of colour subjects or lesbians who are subjected to racism. The plans mainly work with asylum seekers and the categories of LGBTQ persons who have a migration background. In certain plans, these categories are conflated.

However, Hesse demonstrates a more advanced understanding of these issue by actively mentioning racism as an issue for Afro-German LGBTQ persons. The action plan also calls on psychosocial counselling services to be more aware of multiple discrimination. What the action plan lacks is an intersectional reflection on policing and LGBTQ—police collaborations that account for LGBTQ persons of colour's vulnerability to institutional racism (Castro Varela, 2012; Thompson, 2018).

The Hesse action plan further mentions the situation of LGBTQ refugees. However, the focus here is not on how asylum procedures and housing could become more inclusive but on how LGBTQ refugees often do not want to comment on their gender and sexual identity during the asylum process, or on their experience of discrimination in their ethnic communities. The action plan acknowledges that most of the work supporting LGBTQ refugees and engaging with the local asylum authorities has been conducted by volunteers. From 2017, Hesse has supported these networks with €100,000. In 2019, the Cornelia Goethe Center for Women's and Gender Studies at Goethe University Frankfurt and the University of Sussex (UK) organised an academic-activist conference in Frankfurt entitled 'Under the European Asylum Rainbow: Intersectional Queer Challenges' to combine research and policymaking in this field. A second conference was announced for 2020.

The example of the Hesse action plan shows that there is a shift towards the recognition of intersectional issues in German LGBTQ policy debates and that a few of the federal states set the example for an inclusive agenda. For future action plans both on a national and federal state level, capacity building around intersectionality should be intensified—particularly regarding race and class. Areas for progress should include the development of a better understanding about the intersectional needs of LGBTQ persons of colour—especially lesbians and trans women of colour—awareness about how LGBTQ rights discourses can reproduce racist stereotypes and how this affects racialised communities. There should also be a concerted engagement with the expertise of LGBTQ organisations that have focused their work on LGBTQ people of colour and that have operated through an anti-racist lens. In the German context, this is particularly important, as right-wing populists have increasingly tried to cover up their heterosexist positions with the claim that immigration presents a danger to LGB rights (Boulila, Marienfeld and Wellner, forthcoming).

NGO/civil sector/grassroots that engage with lesbians

Germany has a significant number of NGOs and a few of them are specialist service providers to lesbian women*. The LSVD is the biggest lesbian and gay organisation in Germany. It has national and state level offices. The LSVD currently campaigns for more lesbian visibility. The issue appears mainly tied to questions of parenthood and family. While these are important and pressing issues—addressed in this report as well—there has been criticism that lesbian politics should not be limited to questions of family formation, as this reproduces normative ideas about women. The LSVD further addresses lesbian visibility through events in lesbian history. In 2016 and 2017, the LSVD also contributed to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) country report and authored a report for the United Nations Economic and Social Council (ECOSOC). The organisation has also been vocal about including LBTI women* in action plans that implement the Istanbul Convention.

On a state level, there are various organisations that cannot all be listed in this report. A number of examples include North Rhine-Westphalia's lesbian state working group, which has been operating since 1996. This working group focuses on visibility and annually awards lesbians who fight discrimination and act as role models. In Berlin, the lesbian counselling centre operates several groups and services for lesbians. Their anti-violence work area, LesMigraS, also engages in community-based anti-violence and anti-racist work. They also offer specialised services and spaces for lesbians who are refugees and for lesbians who are affected by racism. In the past, they have also commissioned research. In Berlin, the organisation RuT offers specialist services and advocacy for elderly lesbians and lesbians with disabilities. In Frankfurt, the organisation Broken Rainbow hosts an anti-violence counselling service for lesbian trans* and queer persons.

6

Summary and recommendations

This research report has shown that equality and anti-discrimination policies focusing on women* as well as the practice of gender mainstreaming are rarely sensitive to the needs of LBT women*, as these policies are often rooted in heteronormative and trans*-insensitive premises. Moreover, lesbian activists have criticised more recent attempts to mainstream LGBTQ issues for being indifferent to the specific experiences of lesbians.⁹⁰ This long-standing disregard in policymaking translates into a lack of consideration and specialist services for lesbians. Sometimes the community itself compensates this void and this results in unpaid labour. This report has, therefore, demonstrated that there is a need to better mainstream the concerns of lesbian women* in policymaking, both at EU and at EU Member State level. In 2009, a treaty provision was made at EU level,—Article 10 TFEU—precisely to ensure that EU institutions aim to combat discrimination based on, inter alia, sexual orientation by defining and implementing the EU's policies and activities. Nonetheless, as explained in chapter three, to date there has been no evidence that this provision has had any real impact on policymaking or law-making at EU level. In any event, and despite the EU Treaties never having directly referred to LGB rights, certain provisions and instruments that have been introduced through the years (namely, Article 19 TFEU and the resultant Directive

2000/78; Article 21 EUCFR)—and that aim to contribute directly to the fight against discrimination based on, inter alia, sexual orientation—have played an important role in the development of an EU legal framework which aims to protect LGB persons against discrimination. In chapter three, it was also explained how the ECJ has interpreted the above provisions and instruments in its case law, along with other instruments, which have bolstered the rights that LGB persons enjoy under EU law. It has, however, been underlined that there are no EU law provisions that specifically apply to lesbian women* only; instead, lesbians benefit from EU provisions, instruments and ECJ rulings that generally aim to combat discrimination based on sexual orientation simply because lesbians fall within the broader group of persons who have a homosexual or bisexual sexual orientation. This one-size-fits-all approach, nonetheless, means that issues and considerations that are applicable to lesbian women* only are not taken into account or are ignored.

Activists have used the notion of lesbian invisibility to criticise the indifference towards lesbian needs in various European national contexts as well as on a transnational level. However, addressing the current situation of lesbians in Europe through the visibility paradigm also poses risks. The question of who is visible and who is not

90 This was the subject of the online event Lesbian Visibility Day: EU and Lesbians: A Critical Time to Connect (23 April 2020)

should not be simplified, as visibility is a highly ambivalent signifier. While the lesbian movement rightly problematises the invisibility of lesbians in LGBT coalition politics, visibility in relation to lesbian and gay lives has a conflicting history. Lesbian subjects have, for example, been highly visible in psychiatric frameworks and continue to be so (Carri, 2018; Carr and Spandler, 2019; McDermott, Roen and Piela, 2015). As the trans* movement pushes for de-pathologisation, the demand by cis lesbians to be more visible in medicalised frameworks is not unproblematic. It is marginalised lesbians, such as trans* lesbians, poor lesbians, disabled lesbians and racialised lesbians, who are most at risk of pathologisation and subsequent marginalisation. A rallying cry for recognition and visibility, especially in the area of health, can thus undo a number of the strides that have been made in view of the ongoing pathologisation of LGBTI women*.

Moreover, the claim to be recognised as a group with a specific identity displaces inequalities amongst lesbians. This can lead to single-issue politics and a disregard for the needs of those most vulnerable to inequalities. Visibility is, therefore, not an innocent claim, and the question of how lesbian politics and claims for visibility can include and centralise the needs of marginalised lesbians remains a central issue. An intersectional approach allows us to reveal the needs of lesbians who are affected by multiple inequalities, such as poverty, racism and ableism.

The increasing deployment of intersectionality in LGBT policy discourses is positive. However, this report has shown that its use is often partial and particularly lacking in its anti-racist commit-

ments. Although intersectionality is often used to talk about the experiences of queer people of colour, intersectionality partially reduces their situation to the experience of homophobia and fails to account for their experiences of racism inside and outside the LGBTQ community. Particularly the persistent claim that immigrants and racialised communities are prone to homophobia is a problematic discourse that scholars and intersectional organisations have extensively problematised.

This report does not claim to be a comprehensive evaluation of the diverse situation of lesbians in Europe. The analysis of academic literature focused on the lived experiences of lesbians and their intersectional life realities. It did so by identifying themes, which were represented by the twelve thematic sub-chapters. Due to the short time frame of the study, several areas that show relevance in academic inquiry had to be left unexamined. These areas include culture, faith and religious institutions, leisure, sport and public spaces. A further exploration of these themes would be highly desirable, albeit through an empirical method design.

The study highlights the need to institutionally strengthen multidisciplinary research on lesbians. The marginal position of gender studies and hardly institutionalised LGBT/queer studies poses a risk for scholars researching lesbians. A growing body of scholarship on lesbians in Europe would provide a basis to identify issues and provide evidence-based recommendations for policymaking. The following final section identifies such recommendations based on this research report.

6.1 Recommendations

Family and parenthood

- The EU must make it clear that in situations falling within the scope of EU law—for example, when there is an exercise of EU free movement rights—rainbow families must be treated the same as every other family; for instance, all familial links that are legally established or recognised in one EU Member State must be maintained when the family moves to another EU Member State.
- All EU provisions, such as treaty provisions, secondary legislation and soft law measures, must be read by the EU courts—that is the ECJ, EGC and the Civil Service Tribunal—and by other EU institutions such that the provisions treat all mothers the same irrespective of their sexual orientation, gender identity or partner’s legal sex.
- In all situations that fall within the scope of EU law, the EU institutions should require national authorities to treat all mothers the same irrespective of their sexual orientation, gender identity or partner’s legal sex.
- Although this does not fall under the competence of the EU, this study maintains that national laws must be amended in order to remove any direct or indirect discrimination against LBT mothers. This particularly includes the unlimited access to assisted reproductive technology (ART) and adoption as well as automatic co-parent recognition (for a comprehensive list see ILGA-Europe 2014).
- EU, national and local funding must be provided to participatory networks for rainbow families.
- Research funding at both EU and national level must be made available for research activities into the lived experiences of LGBTI mothers.
- Include the challenges faced by LGBTI mothers in the education and training of maternity health care professionals and pedagogical personnel.
- Raise awareness amongst professional associations in the areas of maternity health care, social work and teaching.
- Include the situation of rainbow families in the training of preschool teachers, school teachers and social workers.
- Include representation of rainbow families in school curricula and school teaching materials.

Socio-economic inequalities

- Mainstream gender, gender identity and sexual orientation in EU and national institutions and policy responses that aim to tackle poverty, such as the European Pillars of Social Rights, the Active Inclusion Strategy, the Social Investment Package and the European Social Fund;
- Invest in research and capacity building to challenge gender normativity and heteronormativity in national welfare policies by explicitly drawing attention to the situation of LGBTI women*;
- Explicitly include the situation and needs of LGBTI women* in national homelessness prevention strategies;
- Create and support service providers that provide specific services for homeless LGBTI women*;
- Financially support gender and sexual diversity training for social workers working with homeless persons; and
- Ensure that faith-based homelessness services do not discriminate against LGBTQ service users.

Race, racism and intersectionality

- Increase EU and national funding for research activities into the lived experiences of LGBTI women* of colour;
- The EU and national authorities should create and provide financial support for projects that combat racism within the LGBT community, including racist stereotypes;
- The EU (for EU level civil society organisations) and national authorities should allocate resources to intersectional LGBTQ organisations that work in the area of anti-racism;
- Create and financially support participatory spaces for LGBTI women* of colour; and
- Provide training for professionals involved in an asylum process on gender-based violence, gender identity and sexual orientation (for further recommendations with regards to asylum, see Held & Tschalaer, 2019).

Disability

- Financially support LGBTQ spaces in becoming accessible for disabled persons;
- The EU (for EU level civil society organisations) and national authorities should financially support organisations that provide specific services and participatory spaces for disabled LGBTI women*, and particularly support user-led services;
- Include sexual and gender diversity in the education and training of disability care professionals and pedagogical personnel;
- Support care institutions in the adoption of gender and sexual diversity policies; and
- Increase EU and national funding for research activities into the lived experiences of disabled LGBTI women*.

Elderly lesbians

- The EU (for EU level civil society organisations) and national authorities should financially support organisations that provide specific services and participatory spaces for elderly LGBTI women*, and particularly support user-led services;
- Financially support specific housing projects for elderly LGBTI women*;
- Include sexual and gender diversity in the education and training of elderly care professionals and pedagogical personnel; and
- Support care institutions in the adoption of gender and sexual diversity policies.

Youth and school

- Ensure that all measures specifically take lesbian teachers and students into account;
- Engage and support schools in developing welcoming and supportive environments for students who are non-heterosexual and gender diverse;
- Support schools in developing equality and anti-discrimination policies as well as policies that safeguard LGBTQ pupils and teaching staff against bullying;
- Provide information on LGBTQ issues for school social workers and teaching staff;
- Engage teachers' associations to raise awareness about the challenges LGBTQ youth face in schools;
- Include LGBT issues in the professional education of school teachers;
- Include gender and sexual diversity in national curricula and implement measures ensuring that these topics are taught in a positive and empowering manner; and

- Implement measures that safeguard pupils and teaching staff against bullying, exclusion and discrimination on the grounds of sexual orientation in schools.

Violence

- Financially support user-led organisations that provide services for LGBTI women* who have been affected by violence;
- The EU and national authorities should create and provide financial support for community-based anti-violence projects;
- When developing LGBT-safety initiatives, include a wide range of LGBT organisations, especially those with designated expertise in multiple discrimination and intersectionality; and
- Explicitly include LGBTI women in the implementation of the Istanbul Convention.

Health inequalities

- Include social science perspectives on gender and sexuality in the training of medical personnel and therapists in order to develop critical awareness about pathologising knowledge and narratives;
- Support public medical institutions in the development of LGBT anti-discrimination policies for staff and patients;
- Ensure same-gender couples' hospital visitation rights and medical decision-making; in situations involving the exercise of EU free movement rights, the EU should require that same-gender couples are given hospital visitation rights and medical decision-making rights in the host EU Member State;
- Create a forum for LGBTQ organisations and professional medical associations with the aim of developing and sharing best practices in LGBTQ health care provision; and

- The EU and national authorities should provide financial support for interdisciplinary LGBTQ health research to gain insight into specific challenges in LGBTQ health care provision and for research on how the historical pathologisation of LGBTQ persons affects contemporary medical practice.

Work and employment

- National authorities must ensure that the implementation of Directive 2000/78 is aligned with the ECJ rulings interpreting this directive, that is the rulings in the Maruko, Römer and Hay cases, where it was held that where same-sex registered partners are considered to be similarly situated with opposite-sex married couples under national law for a specific benefit or entitlement, that benefit or entitlement should be granted to them in the same manner as it is granted to married couples. In any event, the EU should seek to extend the prohibition of discrimination on the grounds of sexual orientation in areas falling beyond the material scope of Directive 2000/78, that is. areas outside employment, such as education, social protection, access to goods and services, by ensuring that the proposed new equality directive becomes law;
- National authorities must ensure that the implementation of Directive 2000/78 is aligned with the ECJ rulings (Asociația Accept and NH) interpreting this directive in situations involving homophobic speech in the area of employment;
- Encourage employers to financially support LGBT employee groups; and
- Engage employers in anti-bullying and anti-discrimination campaigns.

Media, representations and public discourse

- Review how EU initiatives that support freedom of expression and media integrity take diversity and intersectionality into account; and
- Provide funding for institutions that train media professionals for the institutionalisation of gender and diversity studies in their training and degree programmes.

Rural lives

- Include sexual orientation and gender identity in statistical data collection on rural women*;
- The EU and national authorities should provide funding for research activities into the lived experiences of rural LGBTI women*;
- Raise awareness amongst organisations dealing with rural women about the specific challenges LGBTI women* face in rural spaces; and
- Create and support digital participation projects for LGBTQ youth in rural regions.

LGBTI organisations and civic participation

- Create participatory projects that strengthen the relationship between LGBT community leaders and their diverse communities in order to increase accountability and self-reflexivity amongst those who represent diverse communities.

LGBT action plans

- Allocate resources to address lesbian needs;
- Encourage lesbian organisations, groups or networks to participate in the development of action plans; particularly include actors that work through the lens of intersectional or multiple discriminations; and
- Conduct an independent academic evaluation of action plans with a focus on multiple discriminations and intersectionality.

Research

- Institutionally strengthen lesbian studies; and
- Promote participatory research in LGBTQ/queer studies through training and designated funding for projects and networks that bring together activists, communities and academics.

7

Contributors

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Dr Anna Carastathis is a political theorist based at the Feminist Autonomous Centre for Research in Athens. She received her Ph.D. in Philosophy from McGill University, her M.Sc. in Gender Studies from the University of the Aegean and her Bachelor of Arts (Hons) in Philosophy from the University of Alberta. Anna has held research and teaching positions in various institutions in Canada (Université de Montréal), the US (California State University Los Angeles, University of British Columbia, Concordia University, McGill University) and Greece (Panteion University of Social and Political Sciences). Anna wrote 'Intersectionality: Origins, Contestations, Horizons' (published by the University of Nebraska Press, 2016), which was named a Choice Outstanding Academic Title by the American Library Association. Her second monograph, co-authored with visual sociologist Myrto Tsilimpounidi, is entitled 'Reproducing Refugees: Photographia of a Crisis' (Rowman & Littlefield International, 2020) in its Challenging Migration Studies series.

Julia Lagerman is a doctoral student in social and economic geography at Uppsala University. Her research interests include feminist theory, geographies of sexualities and queer geographies, specialising in the intersections of nationalism or place attachment and production of sexual and gender norms. Her dissertation centres on the multiple uses of abstracted LGBTQI identity in place productions in Sweden, for which she currently conducts qualitative research. Examining emerging fascist anti-LGBTQI activism and responses towards it, her objective is to describe and analyse ongoing nationalist conflicts in Sweden, focusing on their discourses of LGBTQI subjects' positions in nationalist articulations.

Dr Marta Olasik holds an Master of Arts degree in English Studies (University of Lodz) and a Doctor of Philosophy in Social Sciences (University of Warsaw). She is currently unaffiliated. Her area of expertise is lesbian studies, which she tried to introduce into the Polish academic reality, reflecting primarily on the subject from the perspectives of the sociology of knowledge and geographies of sexualities. Her dissertation (to be published) was a pioneering interdisciplinary conceptualisation of lesbian subjectivities and citizenships, aimed at establishing a distinct lesbian-studies discourse in Poland. She was also part of an international team who encouraged reinvestigating various dimensions of lesbian feminisms across localities. In addition to wanting to ignite the field of human geography within the academic structure in Poland, she is currently focusing on interdisciplinary research into the phenomenology of yoga and means of experiencing yoga sessions in terms of therapeutic values.

Professor Alina Tryfonidou is professor of law at the University of Reading School of Law. Before joining the University of Reading in 2011, she was a lecturer in law at the University of Leicester (2007–2011) and a visiting tutor (2005–2007) and visiting lecturer (2010–2011) at King's College London. Professor Tryfonidou obtained her Bachelor of Laws (2001), Master of Laws (2002) and Doctor of Philosophy (2008) from King's College London and is an Associate of King's College (AKC) (2008). She has been a non-practising member of the Cyprus Bar since 2003, a Fellow of the Centre of European Law at King's College London since 2007 and a Fellow of the Higher Education Academy (HFEA) since 2016. In 2004, Professor Tryfonidou completed a traineeship at the European Commission and in 2010–2011, she was an IALS Visiting Fellow. Professor Tryfonidou's main research interests focus on EU free movement law and the protection of LGBT+ rights.

8

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