Gender-based violence frameworks and trans people in the EU

Proud and Safe Webinar

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2. The impact of the anti-gender movement on laws inclusive of gender and trans people

3. TGEU’s response and how you can help
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2. The impact of the anti-gender movement on laws inclusive of gender and trans people
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Trans people experience gender-based violence at an alarming rate

- Trans people face violence and discrimination due to their gender identity and gender expression and because they do not fit societal gender norms
  - 36% of trans women, 36% of non-binary people, and 33% of trans men in the EU reported that they had experienced physical or sexual violence in the preceding five years
- Many trans people don’t feel safe expressing their gender, don’t report crimes out of fear of victimisation, and don’t feel safe in spaces like public bathrooms
- Trans people with intersecting experiences like migration, sex work, and Black trans and people of colour are at greatest risk
- During the pandemic many women and trans people have been forced to ‘lockdown’ at their residence with their abusers, while services to support survivors have been downsized or made inaccessible
- TGEU’s Trans Murder Monitoring project showed that 2021 had the highest rate of murders of trans people (375) since recording began
EU law is conservatively based on ‘sex’ alone

- Article 19 of the Treaty of the Functioning of the EU: *the Council ... may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation*
  - Written in 1957, still forms the legal basis for all secondary law at the EU
- Over time increasing recognition of how outdated and insufficient the concept of ‘sex’ alone is
  - The sex someone is assigned at birth is not necessarily relevant for how someone identifies and engages with the world - consider trans people
  - Relevant concepts are gender identity and gender expression
Gender is increasingly mentioned in EU laws and strategies

- Currently two pieces of EU secondary legislation explicitly cover the grounds of gender identity
  - Recast Qualification Directive (2011)
- Consider that this happened around the time of the Istanbul Convention (2011)
  - Defines gender as the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men
- Gender equality strategy of the EU (2020-2025) refers to equality between women and men, girls and boys, in all their diversity
- All these developments are highly significant both symbolically and legally for the representation and protection of trans people
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EU gender-based violence directive becomes violence against women directive...

- Progress has been made, but equally strong forces push in the opposite direction
- Gender Equality Strategy included intention to take steps to end ‘gender-based violence’
- The EU Parliament in 2021 recognised that gender-based violence can be inflicted on LGBTIQ+ people because of their gender identity and gender expression
- However, when the directive proposal was published on International Women’s Day this year, it was called a directive on preventing and combatting violence against women and domestic violence
  - No reference to gender identity or gender expression
...and risks missing the opportunity to protect the most at risk of gender-based violence

● From TGEU’s opinion, while the initiative is welcome, the opportunity has been missed to enshrine protection for some of the most marginalised people - including trans people - in EU-level law

● TGEU helped draft and co-signed a manifesto that noted:
  ○ *People facing marginalisation and intersectional discrimination .. including trans and non-binary people, are among the most at risk of gender-based violence and least protected and supported by existing efforts to prevent and tackle violence and other harm*

● This directive language is an outcome of influence by anti-gender governments and other actors
The anti-gender movement has been successful at shifting narratives

- As long as ‘gender’ has appeared in international texts, there has been opposition and coordinated action against it
  - Under the umbrella of fighting ‘gender ideology’ but has included access to abortion, equal marriage, sexual and reproductive rights, gender equality
  - Labels trans people as being dangerous
- The anti-gender movement is well funded and highly coordinated
  - The Global Philanthropy Project reported that between 2013 and 2017, pro-LGBTI+ movements worldwide received US$1.2 billion, while the anti-gender movement received US$3.7 billion
Anti-gender governments in the EU rolled back protections for trans people

- Bulgaria (2021): Constitutional Court declared gender as separate from biological sex doesn’t exist
- Spain (2021): Legal gender recognition law reform faces ongoing opposition
- Hungary: (2020): Complete ban on legal gender recognition
- Poland (2020): Establishment of LGBT-ideology free zones
- Poland and Hungary have a standard response to all legislation that comes to the Council of Ministers with the word ‘gender’ in it
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1. Timeline of references to gender in EU-level laws and frameworks

2. The impact of the anti-gender movement on laws inclusive of gender and trans people

3. TGEU’s response and how you can help
Anti-gender rhetoric harms all people and needs to be challenged at every opportunity

- Removing references to gender and regressing to notions of ‘sex’ harms all people
  - Based on conservative and traditional ideas of men and women
  - Ignores the existence of non-binary people
- TGEU is working to better understand the anti-gender movement and how we can ensure protection for all people - including the most marginalised among us
- Everyone can help by:
  - Challenging misinformation and anti-trans arguments
  - Advocating for support for trans people and inclusion of gender in policy and law
Thank you!