

Erasmus+ Program - KA2 - Strategic Partnerships  
LeGoP - Learning Good Practices in European Countries  
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# INTELLECTUAL OUTPUT 04 TOOLKIT



English



LEARNING GOOD PRACTICES  
IN EUROPEAN COUNTRIES



Erasmus+

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# Introduction

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This Toolkit collects and describes the Good Practices implemented by the project partners in the following fields:

- Prevention and fight against homophobia;
- Implementation of gender equal opportunities;
- Inclusion of students with special needs;
- Work integration of underprivileged people.

Furthermore, it mentions other best practices implemented in the partners' countries in the same fields.

Its main intent is to provide inputs to other organisations, politicians, single individuals, to tackle the issues which LEGOP is focused on, taking inspirations from the good practices described. This shall contribute to:

- prevent, fights and handle homophobic behaviors first of all in schools and more generically in society;
- create the condition to achieve a full inclusion of students with special needs in education;
- improve the opportunities of work inclusion of underprivileged people;
- ensure the widest possible implementation of gender equal opportunities at various levels (in education, in the family, in work places, in society in general).

We hope that this may serve as an useful tool and source of information for all those who share with us these common objectives.

## PRESENTATION OF THE TOOLKIT

The toolkit has been designed as an useful tool to describe and transfer the good practices implemented by the project partners and shared during the planned learning activities.

More specifically, it is aimed at achieving the following RESULTS:

1. Developing useful guidelines to guide those willing to implement the described good practices in their organizations and on their territories;
2. Contributing to limit homophobic discrimination phenomena thanks to the diffusion of the good practices described and to widen the knowledge on the causes that may generate such phenomena based on the survey results carried out during the project;
3. Contributing to promote inclusive practices allowing the equal access to education and vocational training for people with Special Educational Needs, thanks to the diffusion of the described good practices;
4. Encouraging active participation, creativity, spirit of collaboration and ability of working in group in teachers and students that have been involved in the learning activities, who have contributed to develop the toolkit contents;
5. Increasing and deepening the knowledge of legislation and initiatives in the partners' Countries related to the relevant good practices.

The toolkit consists of detailed sections describing each good practice as well as of guidelines allowing their implementation and diffusion in various contexts, Countries and organizations.

The toolkit has been realized on digital support (file) and is freely downloadable from the project webpage ([www.legop.tk](http://www.legop.tk)) and Facebook page and from the partners' websites.

The Toolkit has been introduced to the general public and relevant stakeholders during the Multiplier Events organized in the project.

# 1

## Chapter 1

GOOD PRACTICES  
IMPLEMENTED BY LICEO  
“SALVEMINI”



Liceo Scientifico ‘Salvemini’ is thus engaged in a process of a growing awareness towards disadvantaged students knowing that each human being has his/her own cognitive strength and his/her own peculiarity requiring a guided personal learning process.

As a matter of fact, inclusiveness implies an active and authentic recognition of all citizens with their fundamental rights. An inclusive school recognizes and values the several and endless varieties of human diversities considering disabilities and geniality, cultural, linguistic and sexual differences together with family and economical differences.

This represents a new perspective that goes beyond the school sphere and where inclusiveness, citizenship and participation form the basis of a democratic culture.

1.1 - INCLUSIVE TEACHING AT LICEO SCIENTIFICO SALVEMINI: SUITABLE LEARNING ENVIRONMENT

Since the school year 2013-14 the liceo Salvemini has promoted a project of inclusive didactic through an innovative planning at short and medium term. Its main objective is to strengthen the passage from a content-centred approach to a student-centred approach which has to consider students' learning condition functional to the development of their competences, as required from the European and international framework.

The main steps of the project are:

- a. Pointing out problems / cases
- b. Laying-down projects
- c. Creating suitable learning -environment

a. Pointing out problems/cases: from drop out to SEN (Special Educational Needs) ?

The first focus has been on the relationship between the school, located in the southern outskirts of the town and its neighbourhood: as a matter of fact most students come from the local area together with many others coming from the nearby metropolitan area. The school represents for them a real opportunity to go on with University; in this perspective, the difficulties, especially in the first two years, undermine their will to go further, preferring other realities to this academic school. The second focus is on teachers' needs: teachers, in fact, are always trying to improve the real involvement of students in school activities offering at the same time better learning opportunities to SEN students. Our school has always given a special care to each student in order to guarantee, especially to those in need, instruments to become aware of their needs and thus to find their personal motivation towards studies. In accordance with the guidelines of the Italian Ministry of Education (27/12/2012) and the document no.8 26/03/2013 referring to SEN students, our liceo has planned a school year inclusive teaching programme (PAI). It refers to:

- 1) Certified disabilities
- 2) Specific Learning Disabilities and young age disorders
- 3) Social, economical, linguistic- cultural disadvantage.

While in the first case a dedicated teacher supports the student, in the other two situations it is up to the teachers of the class, also conforming to the general school planning, to define and fulfil the SEN student's project. The teachers and the group work for inclusion have attended a specific course and are expected to cooperate with the local organizations for inclusiveness. An important support so far has been the opportunity offered to students, teachers and parents by means of our Listening Centre with the presence of a psychologist at school.

Since 2013-14 the Listening Centre has worked with all the first and second classes of our school either individually or as a group. Besides students of these classes have answered to questionnaire both on their learning preferences and on an overall inclusive learning environment. The answers have enlightened not only the different learning styles but also their behavior and different attitude also in cooperative relationship. The survey has pointed out the SEN students whose problems had not been presented by their families, it has also been used to evaluate the group relationship. The individual meetings have involved a wider range of problems, from school problems to the research of one's own identity, including sexual identity, from family problems to psychic disorders. The psychological counselling has included different area of intervention linked to the psychological sphere, psychopathology of the learning sphere, psychology and psychopathology of the age of evolution and the area of family problems. The school intervention has been shared by teachers and parents and completed with the involvement of local institutions.

In particular and in reference to our school the Groupwork for Inclusion undertakes the following functions:

1. collecting and editing documents of the specific intervention developed
2. Comparing and discussing the cases, counselling teachers for the management of the classes in terms of strategies and methodologies.
3. surveying, monitoring and evaluating the level of inclusiveness of the school.
4. Drafting a school year planning for SEN students, by the end of June; an Individual Teaching Plan will be draft for a) students with ex L.104/92; b) students with a

medical certificate(L.170/2010). These plans will have to be shared by families, psychologist, and professional references

The following priorities have been pointed out:

behavioural Difficulties

Personal, social, environmental problems bringing to a weak motivation and limited attendance of the lessons.

Relationship difficulties bringing to a limited involvement in the group class or with the teachers.

Health difficulties due to period of illness, accidents, or coming from psycho -emotional sphere.

Teachers considered many strategies by using a range of different approaches and resources to engage and include individuals and groups during lessons. In the end, the following strategies were chosen:

1. Educational approach based on relationships, affection and empathy
2. Motivational approach
3. adaptations of materials and texts for teaching purposes
4. Using human resources of classmates ( cooperative learning, peer tutoring)
5. Reinforcement and remedial work
6. Support in the way the work is organized
7. teaching through workshops based on problem solving, cooperative learning, flipped classroom especially with tablet classes, on error analysis, respect for the learning styles , the quality of teacher /student relationship , active listening, empathy, self-esteem revaluation, the ability to cope with possible difficult situations.

In our school evaluation has been revisited on the basis of the students' personal needs and it has become dynamic. This kind of evaluation is based on the teacher / student interaction both from a cognitive and an emotional point of view. The " dynamic " teacher /assessor represents an active guide to the learning process and should take into account all its components: cognitive, relational emotional.

The aim of this kind of evaluation is to encourage self evaluation and try to get its potentialities. Accepting a personalized evaluation doesn't mean being resigned to accept poor

results, but investing on the real potentialities of the student, with a special attention to the initial situation and the competences acquired his learning process . The meaning of the score will be related with the progress the student has made and will be concerning with the possibilities of further progress as well as with the risks of getting worse results.

b. Project of "social teaching" and tablet classes as an innovative instrument of inclusive teaching

Our school has therefore chosen to be a place of dialogue and comparison of constructive ideas , based on the values of responsibility and basing itself on the idea that studying goes beyond the world of knowledge but includes an idea of growth and acceptance of differences which are seen as a form of personal enrichment.

For this reason our school has tried to give life to a flexible project which implies:

1. A valid opportunity against dropout
2. A means to encourage school success
3. A way to include students with SEN needs
4. A means to give value to excellent students.

To this innovation great input was given by our Principal, Prof Tina Gemundo, who encouraged the presence of tablet classes in our school. They are based on the teaching model of [Scuol@3.0](#), based on the School& Home Cloud Learning which differs from scuola 2.0 for its regular use of social media : starting from Chrome , Search, Gmail up to Google Apps for Education .

The word Learning which [scuol@3.0](#) refers to is characterized by three qualified elements: School, Home and Cloud. In [scuol@3.0](#) the barriers represented by the school walls do not exist anymore. Our future perspective is that of abandoning the class groups since the classes are organized by the teachers not through the teaching of different subjects but through themes and levels of learning , so that they could take place in any part of the school. Moreover classes can reach even the students' Home according to the students' habits, times and exigencies.

How does this take place?

In scuol@ 3.0 the didactic material realized by teachers and students is sent to the Cloud which is made available in applications such as Edmodo, Pbworks, Social classroom and Google classroom organized for virtual classes. The first step made by our school has been the critical analysis of platforms in order to choose the one which is more adequate to the family and the school exigencies. In the end the choice was made for Google classroom because it is easy to be used , for the presence of different languages, for the free application offered to the school both for with Android , with Apple , Windows and Google Apps for Education.

The material in Google classroom is available everywhere and can be used by everyone, teachers, students, parents and with any disposal connected with Internet, tablet, Pc, notebook, smartphone. At the same time it is protected since we have created some accounts for each student and each teacher in order to structure a community in Liceo Salvemini. That reaching has become " social teaching" because it is based on a social network, in a protected environment in which it is possible to use an ecosystem

of digital services which allows teachers and students to communicate and cooperate in order to create and to share knowledge.

Later we are planning of widening the potentialities of our community through examples of Hangouts On Air, which is a Google service allowing:

1. Face-to-face interacting among a group of people (teachers, students, parents) involved in the video chat
2. An online sharing of computer resources like documents, ppt, videos
3. Interactive lessons for an almost unlimited number of people

It is important to underline that in our project the teacher, even if no more 'on the desk', maintains his/her role; s/he is a reference point in the learning process, a guide and a support through the students' research process and acquisition of knowledge and competences; s/he must foster the use of new technologies both in terms of devices (PC, wifi, Interactive board, video-projector) and as resources (opensource, multimedia materials, virtual work spaces, clouding computing, etc.); s/he must help the sharing of reports and feedbacks.

### c. How to make a suitable learning environment

We realized that in order to have a suitable learning environment, it was necessary not only to update technological instruments, such as web site and school devices, but also to create a didactic space which influences the social cognitive and motivational sphere of each student at any age as an 'element of pedagogical quality'.

Recent academic studies underlined how learning environment, organized as a flexible space, can meet the needs of students and teachers and become not only one of the basic means to improve social aspects and cooperative learning processes (such as a real involvement in a real world, the chance to learn both on a problem solving base

and on a peering learning base ) but also one that fosters students' independence and motivation.

That's why our classroom 3.0 are now equipped with:

- Interactive board
- A wide screen with video projector
- A wall TV

All these devices can be used to show the same pictures contemporarily or to separate them and share information in separate groups.

Each student can use his/her own tablet WIFI or Cloud; teachers can use their tablet and a PC connected to a video projector. In a short time, a multifunctional wireless printer and a ear-microphone will be available in each classroom.

Even walls will have a didactic function being endowed with an emotional and cultural perspective: a place to project on, to write on, to hang on horizontal panels; the windows will be covered with coloured curtains if necessary.

The starting point have been the trapezoidal coloured flexible desks, as a matter of facts they can be used for group works or for individual tasks or can be closed to leave space to other activities.

Classrooms and corridors will have informal chairs to share ideas and opinions.

## 1.2 DESCRIPTION OF THE GOOD PRACTICES IMPLEMENTED BY LICEO SALVEMINI

The good practice implemented by Liceo Salvemini taken into consideration in LeGoP project consists in the development and application of tools and methodologies aimed at recognizing students' Special Educational Needs and in the identification of the causes that have generated them. This is done through a specific implementation instru-

ment: the Annual plan for inclusiveness (API), which is developed every year and refers to:

- certified disabilities (Law 104/92 article 3, paragraphs 1 and 3 and Note prot. No. 4274 ( 4 August 2009));
- specific developmental disorders and/or DSA (former Law 170/2010);
- socio-economical, linguistic and cultural disadvantage

The API is drafted according to the Italian Ministry of Education Guidelines (27/12/2012) and following Notes (no.8 of 06/03/2013). The Guidelines of the Italian Ministry of Education (27/12/2012) states:

- the basic principles of inclusion that is << the ability to provide a framework within which the students – regardless their ability, gender, language, ethnic or cultural origin - can be valued, respected and provided with equal opportunities at school >> (F. Dovigo 2008);

- the concept of Special Educational Needs (SEN), considered as a general category including all the individual conditions that require the use of the fundamental inclusive principles that is:

- individualization, i.e. programs tailored for common objectives;
- customization, i.e. different paths and goals;
- compensatory tools;
- dispensatory measures;
- functional use of human and financial resources, equipment and materials, aimed at the school inclusiveness.

The implementation of the API is entrusted to the teachers of the class council and teachers for support

The teacher for support is assigned to the first "target", that is to certified disabilities.

The situations of specific developmental disorders and / or DSA and socio-economic, linguistic and cultural disadvantage are entrusted to the Class Council, now called to develop and implement a Personalized Learning Plan (PLP).

In relation to what is defined in the School Plan of Studies, the individual Class Councils are then instructed to detect the presence of the Special Educational Needs (SEN) and to decide on whether to adopt individualized routes and inclusive teaching practices in each class.

In order to guarantee each student the best bio-psycho-social condition, the ministry guidelines stress the need to extend care and protection to those who have temporary or permanent educational problems. These may occur in the classroom and may be dealt with the creation of conditions useful to the realization of a qualified learning paths.

A. Survey of SEN present:	n°
1. certified disability (Law 104/92 art. 3, paragraphs 1 and 3)	
disabled views	
handicapped hearing	1
psychophysical	1
1. Specific developmental disorders	
DSA	12
ADHD/DOP	
Cognitive Borderline	1
Other (-DOC neuropsychiatric disorders, Asperger's, schizophrenia ...-)	4
1. disadvantage (indicate the prevailing unease)	
Socio-economic	
Linguistic and cultural	
Discomfort behavioral / relational	
Other	
<b>Total</b>	<b>19/966</b>
<b>% Of the school population</b>	<b>1,96</b>
No. API prepared by GLHO	2
No. PLP prepared by the Class Council in the presence of health certification	17
No. PLP prepared by the Class Council in the absence of health certification	

B. Specific Professional Resources	Mainly used in ...	Yes / No
Support teachers	individualized and small group activities	yes
	integrated laboratory activities (open classes, sheltered workshops, etc.).	yes
AEC	individualized and small group activities	
	integrated laboratory activities (open classes, sheltered workshops, etc.).	
Communication assistants	individualized and small group activities	
	integrated laboratory activities (open classes, sheltered workshops, etc.).	
Instrumental functions / coordination	Coordination, consultation, planning, training	only coordination
Referrals Institute (disability, DSA, SEN)	Advice, assistance, support to the Class Council for compiling PDP, dialogue and welcome SEN students and parents, mediation between external experts and C.d.c.	Yes, 2 (one for the disabled and one for DSA and other SEN)
Educational psychologists and related external / internal	Projects PON, POF, support and counseling teachers, students and parents	yes

C. Involvement curricular teachers	Through ...	Yes / No
Class coordinators	Participation in GLI	yes
	Relationships with families	yes
	Tutoring students	yes
	Teaching and educational projects with predominantly thematic inclusive	yes
	Other:	
Teachers with specific training	Participation in GLI	yes
	Relationships with families	yes
	Tutoring students	yes
	teaching and educational projects with predominantly thematic inclusive	yes
	Other:	
Other teachers	Participation in GLI	yes
	Relationships with families	yes
	Tutoring students	yes
	teaching and educational projects with predominantly thematic inclusive	yes
	Other:	

<b>D. Personal involvement ATA</b>	SEN Support	<b>no</b>
	Inclusion projects / integrated laboratories	<b>no</b>
	Other:	
<b>E. Family involvement</b>	Information / training on parenting and developmental psychology	<b>yes</b>
	Involvement in inclusion projects	<b>yes</b>
	Involvement in the promotion of the educational community activities	<b>yes</b>
	Other:	
<b>F. Relations with local health and social services and institutions dedicated to security. Relationships with CTS / CTI</b>	Program agreements / MOUs formalized on disability	
	Program agreements / MOUs formalized of discomfort and the like	<b>yes</b>
	Shared procedures for action on disability	
	Shared procedures of intervention of discomfort and the like	<b>yes</b>
	Integrated Territorial Projects	
	Integrated projects at the school level	
	Relationships with CTS / CTI	
<b>G. Relations with social and private services and volunteering organizations</b>	Integrated Territorial Projects	
	Integrated projects at the school level	<b>yes</b>
	Projects at the level of school networks	
<b>H. Teacher Training</b>	Strategies and educational and teaching methods / classroom management	<b>yes</b>
	Special teaching and educational-teaching projects to prevailing theme inclusive	<b>yes</b>
	Intercultural education / Italian L2	
	Developmental psychology and psychopathology (including ASD, ADHD, etc.)	
	Training projects on specific disabilities (autism, ADHD, Dis. intellectual, sensory ...)	
Other:		

Summary of the strengths and identified critical issues *:	0	1	2	3	4
Organizational and management aspects involved in change inclusive				X	
Ability to structure specific training courses and further education of teachers				X	
Adoption of consistent evaluation strategies with inclusive practices;				X	
Organization of different types of support present within the school			X		
Organization of different types of support on the outside of the school in relation to the different existing services;			X		
Role of families and the community to support and participate in the decisions that affect the organization of educational activities;					X
Development of a careful curriculum to diversity and to the promotion of inclusive training programs;					X
Exploitation of existing resources				X	
Acquisition and distribution of additional resources usable for the realization of the inclusion projects			X		
Attention given to the transition phases that mark the entrance into the school system, the continuity between the various school and subsequent job placement.					X
Other:					
Other:					
* = 0: not at all 1: slightly 2: pretty 3: 4 very much					
<i>Adapted by UNESCO indicators for evaluating the degree of inclusiveness of school systems</i>					

In accordance with the new ministry guidelines therefore all teachers of the Class Council have a duty not only to design concrete actions but also to harmonize the Special Educational Needs of students with individual differences and with the management of the whole class, so as to create a community of learning that knows how to be inclusive, by enhancing each student's needs through exchange and integration in a symmetrical position.

#### O U R S U P E R V I S O R :

the Working Group for Inclusion (W.G.I.)

1. by the Headmaster, Ms. Tina Gesmundo;
2. by referent teacher for inclusion, Ms. Sabrina Santamato;
3. by referent teacher for the group H, Ms. Raffaella Intonti;
4. by specialized teacher for support, Ms. Rosa Carlone;
5. by specialized teacher for support, Ms. Annalisa Ferrante;
6. by curricular teacher, Ms. Rosanna Ciocia;
7. by curricular teacher, Ms. Paola Patimo;
8. by a parental representative of students with disabilities, Ms. Sciacqua;
9. by a parental representative of students with SEN, Mr. Laforgia;
10. by a representative of students with SEN, Francesco Laforgia;
11. by the psychological consultant, Dr. MariaLuisa Lopane;
12. by the representative of the Local Health Committee, Dr. Anna Mustazza.

AIMS of the Working Group for Inclusion (W.G.I.)

They are:

- implement early interventions to prevent maladjustment and alienation, with a view to the full realization of the right to education;

- delineate and clarify the inclusive strategy in order to fully realize the right to learning for all pupils and students in difficulty by extending the aim of action and responsibility of the entire educational community to the entire area of Special Educational Needs .

### POWERS AND FUNCTIONS of the Working Group for inclusion (W.G.I.)

The action of W.G.I. can be summed up in organizational, planning, evaluation and consultative skills. In particular:

- it is the interface of the network T.S.C. (Territorial Support Centres), of T.I.C. (Territorial Centres for Inclusion) and the Local Social Health Services for the implementation of training, mentoring, prevention projects, monitoring, etc;
- it detects Special Educational Needs (SEN) in the school;
- it organizes case comparisons;
- it offers advice and support to colleagues on strategies and classroom management methodologies;
- it detects, monitors and evaluates the level of inclusiveness of the school;
- it gathers and coordinates the proposals made by individual W.G.H. Operating on the basis of the actual needs, in accordance with art. 1, paragraph 605, letter b, of the Law 296/2006, stated in the definition of PLP, as established by art. 10, paragraph 5 of Law 30 July 2010, no. 122;
- it elaborates, within the month of June, the draft of the Annual Plan for Inclusiveness referred to all pupils with SEN, which is to be defined at the end of each school year. To this end, the Working Group for Inclusion will undertake an analysis of the weaknesses and strengths of the school inclusive actions developed in the past year and will formulate a hypothesis of global functional use of specific resources in order to increase the future general level of inclusiveness of the school;

- in September, in relation to the actual resources allocated to the school, it provides the adaptation of the Annual Plan for Inclusiveness, in accordance to which the Headmaster will allocate permanent 'functional' resources;
- it collects and files documents ( in digital format) of the didactic-educational actions undertaken on each student with SEN.

### MEETING AND CHAIR of the Working Group for inclusion (W.G.I.)

The meetings are held by the Headmaster and are presided over by him/her or by his/her delegate.

Resolutions are passed by a majority of those present. The components of WGI have proactive and consultative function. Each meeting must be drawn up. The WGI may meet in session:

- plenary (with the participation of all the components);
- restricted (with the presence of teachers and possible technical staff);
- dedicated (with the participation of the people who deal in particular with a specific pupil);
- it can also gather for functional joints.

### TIMES AND PURPOSES of the Working Group for inclusion (W.G.I.) MEETINGS

The W.G.I. in plenary will meet 2 times a year roughly in the months of September /October (for the ratification of the allocation of resources), and April / May (API verification and monitoring, planning of the school year, subsequent inclusion activities and demand for resources).

The W.G.I. in restricted session will meet several times a year ( "single-subject meetings") for the practical organization of school activities that involve pupils with disabilities and inclusive needs in order to:

- define the educational and teaching shared lines;

- plan the projects for welcoming new enrolled students;
- develop criteria for the distribution of the resources of support activities;
- planning workshops;
- test work in progress and at its fulfillment;
- drawing up documentation draft for local authorities.

The W.G.I. in dedicated session will meet not less than 2 times a year for the preparation and verification of ongoing and final individual plans. The agenda will determine the composition of the school WGI meetings.

### OUR PUPILS WITH SEN 2015/16 school year

Out of 941 total enrolled students we have 20 pupils with SEN; in particular:

- 3 pupils with certified disabilities in accordance with Law 104/92 (2 cases of severe mental retardation and one case of autism with mental retardation) possessing functional diagnostics; they are sided by three support teachers and 3 professional educators ;
- 12 pupils with SLD (specific learning disabilities) certified under L.170 / 2010;
- 5 students with other specific developmental disorders that do not fall under the protection of Law 104/92, neither the L.170 / 2010, but also considered the subject of clinical diagnostic readings (ex .: lowest intellectual functioning), including 1 severe low vision, one with ADHD (attention deficit hyperactivity disorder) and 3 with neurological or psychiatric disorders (1 case of bipolar disorder, 1 case of schizophrenia, 1 DOC- case of obsessive-compulsive-disorder with Asperger's syndrome).

### WHICH NEEDS?

Liceo Scientifico "G. Salvemini " has identified an additional SEN level, connected to all the dysfunctions that are learnt in the classroom behavior of pupils with social, economic, cultural disadvantage, on a more or less temporary also permanent basis, or in

individual situations related to personal affairs. Therefore, it has set as priorities the following needs:

- difficulties arising from inappropriate behavior;
- poor class attendance as a result of a modest motivation due to personal, social, environmental or family problems;
- difficulties entering the classroom setting due to poor abilities to relate to the peer group or with the teachers;
- difficulties resulting from temporary change of health status (illness, accident, disease of the psycho-affective sphere).

### 1.3 - INCLUSIVE TEACHING

As the identified strategies for the implementation of inclusive education are various, teachers become active in the design of methodological-didactic courses and realize personalized and individualized courses.

- The personalization means the use of teaching strategies designed to ensure each student his/her own strength of cognitive excellence, through elective opportunity to cultivate a personal intellectual potential. It is aimed at making sure that each student fully develop his/her personal talents and thus its objectives are diversified in relation to individual cases identified by the teachers of the class.
- The individualization, however, refers to educational strategies that aim to ensure all students their basic skill achievement identified in the drafting of the school curriculum, through a diversification of educational tours. In other words, the individualization has the aim to ensure that certain educational goals are achieved by all students at a certain moment, in a certain school of a certain territory, away from generalized directions for the entire country, from which, nevertheless, their origins start; its objectives are common to everybody (M. Baldacci 2003).

This diversification of objectives and the educational-training adjustments on pupils with SEN involve, necessarily, appropriate strategies and methodologies, which may or may not involve the class.

## STRATEGIES OF INCLUSIVE EDUCATION

The teaching strategies, considered essential for inclusive education and for this purpose identified by the teachers of the High School "G. Salvemini ", are the following:

- support of an educational, relational, affective and empathetic nature;
- motivational support;
- instructional adaptations of materials and texts, activation of classmates' resources (cooperative learning, peer tutoring), teaching laboratory, use of technology;
- development, remedial work;
- support in managing the organization of work

## TEACHING AND PRACTICAL TOOLS OF INCLUSIVE EDUCATION

The most suitable educational practices to develop these strategies are, as already indicated, those based on a problem solving nature, the cooperative work, the flipped classroom, especially in the new tablet classes, the teaching error, the respect of the rhythms and styles of learning, on the quality of the student-teacher relationship, active listening, empathy, action aimed at strengthening self-esteem, on the awareness of the group class resilience, or the ability to respond positively to any uncomfortable situations.

The tools that are functional in such cases seem to be: Tablet, LIM, laptops, USB drives, iPads, iBooks, creating concept maps, diagrams useful in adapting the texts, copies provided by the teachers.

## EVALUATION IN INCLUSIVE EDUCATION

The evaluation, based on the personalized routes or the PLP, also receives an appropriate revision of its common practices.

It would, in fact, be appropriate a dynamic feedback. This type of evaluation is made by a process in which teacher and pupil interact from both a cognitive and emotional viewpoint. The "dynamic" evaluator teacher is an active guide to learning and must work on all of the variables of the process: cognitive, relational, emotional.

The aim is to encourage self-evaluation, to grasp its potential.

The personalized assessment therefore does not mean resignation to poor returns, but investment on actual student potential, and with constant attention to baseline and to the learning process, ready to evaluate the skills acquired during the course, to analyze and understand the " meaning "of marks by referring to knowledge and skills, to consider how the student has got there, which opportunities s/he has to progress and which risk of regressing s/he runs.

#### 1.4 – Annual plan for inclusiveness scholl year 2015/2016

##### Analysis of the strength and weak points

A. Encuesta de NEE actuales:	n°
1. certified disability (Law 104/92 art. 3, paragraphs 1 and 3)	
disabled views	
handicapped hearing	1
psychophysical	1
1. Specific developmental disorders	
DSA	12
ADHD/DOP	
Cognitive Borderline	1
Other (-DOC neuropsychiatric disorders, Asperger's, schizophrenia ...-)	4
1. disadvantage (indicate the prevailing unease)	
Socio-economic	
Linguistic and cultural	
Discomfort behavioral / relational	
Other	

Specific Professional Resources	Mainly used in ...	Yes / No
<b>Support teachers</b>	individualized and small group activities	yes
	integrated laboratory activities (open classes, sheltered workshops, etc.).	yes
<b>AEC</b>	individualized and small group activities	
	integrated laboratory activities (open classes, sheltered workshops, etc.).	
<b>Communication assistants</b>	individualized and small group activities	
	integrated laboratory activities (open classes, sheltered workshops, etc.).	
<b>Instrumental functions / coordination</b>	Coordination, consultation, planning, training	only coordination
<b>Referrals Institute (disability, DSA, SEN)</b>	Advice, assistance, support to the Class Council for compiling PDP, dialogue and welcome SEN students and parents, mediation between external experts and C.d.c.	Yes, 2 (one for the disabled and one for DSA and other SEN)
<b>Educational psychologists and related external / internal</b>	Projects PON, POF, support and counseling teachers, students and parents	yes

Involvement curricular teachers	Through ...	Yes / No
<b>Class coordinators</b>	Participation in GLI	yes
	Relationships with families	yes
	Tutoring students	yes
	Teaching and educational projects with predominantly thematic inclusive	yes
	Other:	
<b>Teachers with specific training</b>	Participation in GLI	yes
	Relationships with families	yes
	Tutoring students	yes
	teaching and educational projects with predominantly thematic inclusive	yes
	Other:	
<b>Other teachers</b>	Participation in GLI	yes
	Relationships with families	yes
	Tutoring students	yes
	teaching and educational projects with predominantly thematic inclusive	yes
	Other:	

<b>Personal involvement ATA</b>	SEN Support	<b>no</b>
	Inclusion projects / integrated laboratories	<b>no</b>
	Other:	
<b>Family involvement</b>	Information / training on parenting and developmental psychology	<b>yes</b>
	Involvement in inclusion projects	<b>yes</b>
	Involvement in the promotion of the educational community activities	<b>yes</b>
	Other:	
<b>Relations with local health and social services and institutions dedicated to security. Relationships with CTS / CTI</b>	Program agreements / MOUs formalized on disability	
	Program agreements / MOUs formalized of discomfort and the like	<b>yes</b>
	Shared procedures for action on disability	
	Shared procedures of intervention of discomfort and the like	<b>yes</b>
	Integrated Territorial Projects	
	Integrated projects at the school level	
	Relationships with CTS / CTI	
	Other:	
<b>Relations with social and private services and volunteering organizations</b>	Integrated Territorial Projects	
	Integrated projects at the school level	<b>yes</b>
	Projects at the level of school networks	
<b>H. Formación del profesorado</b>	Estrategias y métodos educativos / gestión de la clase	<b>Sí</b>
	Proyectos de educación especial y formación del profesorado de temática predominantemente inclusiva	<b>Sí</b>
	Educación intercultural / Italiano L2	
	Psicología del desarrollo y psicopatología (incluyendo ASD, ADHD, etc.)	

## Part 1.5 - Objectives of inclusiveness increase proposed for next year

Organizational and management aspects involved in inclusive change (who does what, levels of responsibility in the intervention practices, etc.)

The Institute Contact Person for Inclusion becomes the only figure for the detection, monitoring and coordination of the WGI and the Class Council on certified disabilities and SEN. Along with the Headmaster as a facilitator among the Class Councils to harmonize the inclusive education in all contexts, in particular in subject evaluation and production tests. This person draws up the annual PLP, detects the beginning of the year of SEN students entering, from the documentation provided by other schools and contacts with the families of new members, provides Class observation forms for the detection of SEN; designs and prepares the individual models of the PLP, after carefully reading medical certificates, subjecting them to individual class councils concerned; s/he reworks the PLP of previous years updating them before subjecting them to the Class Council, supports the Class Council for procedures for the taking in charge of SEN students, offering advice for the drafting of the PLP; works synergistically with class coordinators, with the families of SEN students, with specialized support teachers, with educators assistants, with educational psychologists and related external professional figures, with local health and social services.

The WGI performs the detection, monitoring and evaluation of the level of inclusiveness of the school; It collects the proposals made for the elaboration of the annual PLP; checks and approves the work of the Institute Contact Person for the inclusion; It interacts synergistically to promote and strengthen the dissemination of good practices for school inclusiveness of children with disabilities and certified with SEN.

The Class Councils and Class Coordinators Councils are responsible for inclusive practices, particularly SEN certificates, but in general all situations of distress; predispose the intervention of each teacher in the psycho-educational and cultural programmes of the pupils with SEN; complete the PLP in the parts relating single subjects, the evaluation criteria and the use of compensatory and dispensatory instruments based on the principle of customization; identify strategies and methods useful for the suc-

successful participation of students at SEN learning context; share custom projects (PLP and API), work together in synergy with families and with all the figures working in the field of SEN.

The School Committee approve the API.

Ability to structure specific training courses and further education of teachers

For the 2015-2016 school year it is expected to upgrade the course on SEN in the first few months of school year 2013-2015, taking into account the educational experience in teaching practices 3.0 and proposes the training and professional development for teachers on the following thematic areas:

- legislative development about the SEN;
- teaching and inclusive education methodology;
- compensatory and dispensatory tools for inclusion;
- new technologies for the inclusion;
- glottodidactics specific to the teaching of foreign languages to SEN.

Adoption of assessment strategies consistent with inclusive practices

The same evaluation strategies were adopted and shared by all Class Councils relating to specific developmental disorders and disadvantages. The API will be developed, monitoring the critical and strength points, and implementing new effective inclusion practices. The teachers of the Class Council measure the results obtained based on the starting conditions, having as its objective the identification of the essential levels of learning of each subject and the tools to achieve these levels.

Considering the PLP and the API, the teachers of the Class Council describe:

- the dispensatory and compensatory measures;

- the possible interventions in terms of methodology;
- the basic levels of competence;
- strategies and methodologies such as: peer education and tutoring, cooperative learning, learning by doing, the individualized and personalized activities (mastery learning), learning by induction and discovery, the flipped classroom, the use of instruments and computer communication technological devices.

### Organization of different types of support present within the school

For the implementation of school inclusiveness several professional figures interact:

- support teachers promote individualized activities, specific interventions in micro-groups, laboratory activities carried out in specifically created areas for serious disability in the school year 2015-2016 ; ensure the integration and socialization with classes especially related to motory activities;
- the assistant educator promotes educational and teaching interventions oriented more to promote personal autonomy and cognitive acquisition on the side of the learning curriculum. The activities predominantly take place in the classroom and in the computer labs;
- the referent SEN and DSA supports for the Class Council take-over procedures of SEN students, offers advice on the creation of PLP, welcomes and guides the students and parents of students with SEN, disseminates information relating to SEN issues, coordinates the activities of the teachers engaged in supporting students with disabilities and students with SEN;
- the teachers, working for the regional project 'Rights in School' (if any), deal with the consolidation and recovering of those abilities and skills not entirely acquired by students with learning difficulties.

## Organization of different types of extra-support related to existing services

The various activities to promote and strengthen the dissemination of good practices for school inclusiveness are realized in a synergistic and coordinated manner with the multidisciplinary team of the National Health Service, which directs in a dynamic form educational interventions to foster an appropriate educational intervention functional to the specific evolutions of diseases and/or disorders. Any network conventions and project will also involve the local authorities, voluntary associations and health centres.

## Role of families and the community to support and participate in the decisions affecting the organization of educational activities

All families whose children have developmental disorders and severe disabilities are involved in the learning process and socialization, which ensures the effectiveness of educational interventions, and constructively in the practices of inclusiveness, in order to cooperate and share educational responsibility. Communications to the family, guaranteed by the Class Coordinator are punctual and functional to the continuous rescheduling of operations, to ensure a constructive parent-teacher alliance. By the end of November families are called to subscribe the PLP and the API and share the dispensatory and compensatory measures, together with specific methodological strategies for each student that will be used to favour the development of the educational potential in accordance with the guidelines established for the essential levels of learning in each subject.

## Development of a careful curriculum to diversity and to the promotion of inclusive training

Considering the specific situations of learning difficulty and/or distress for pupils with special educational needs the situation a PLP (Personalized Learning Plan) is wor-

ked out, while an IEP (Individualized Education Plan ) for pupils with different abilities is drawn up.

In the PLP all dispensatory and compensatory measures adopted in the various subjects of the curriculum are indicated by the Class Council in connection with the student's individual needs, identified by the teachers or certified. In API the specific learning objectives, strategies, methods, evaluation criteria, checks and connections with social welfare activities implemented by educators appointed by local authorities are identified.

Therefore each subject will be taken in charge by the school with the definition of a course responding to their individual educational needs, to promote growth, improvement and success in education.

#### Exploitation of existing resources

Each measure is carried out in relation to resources and specific skills in the school and in collaboration with external consultants any time there should be a need.

#### Acquisition and distribution of additional resources to carry out the inclusion projects

The school takes part to European projects (Erasmus plus) in order to get any funding opportunities that can facilitate inclusive educational practices. However the extreme heterogeneity of the concept of Special Educational Needs and the multiplicity of educational and didactic answers related to the complexity of the various emerging needs necessitate the implementation of a project, promoting and involving all the resources and skills in the school, by defining the possible need for additional skills.

Therefore it is believed that this high school needs:

- special funding for training courses on inclusive education;
- definition of new alliances with social and health services;

- strengthening of already active human resources;
- networking of schools concerning inclusion in high school courses;
- specific higher formative orientation courses.

Attention given to the transition phases, from the entrance into the school system, to the continuity towards other schools and subsequent employment

- When enrolling, individual interviews with families are always guaranteed in order to customize the entry into the new school context.
- The Headmaster and the SEN contact person, as well as the entire educational community, state extremely important the host phases, from taking charge of the new pupils to their following orientation, especially those with SEN.

## Conclusions

By starting this innovative process, our Liceo has positively met the demand of inclusive teaching since students can become aware of their learning process by giving meaningful values to it and in an environment in which they can use several languages in order to compare different opinions and share ideas in progress with other groups of students.

Besides the responsible use of the net under teacher's guide helps finding out further relationship with other sources of information, favouring cooperation and communication with foreign students and teachers. Moreover the use of tablets and other technological devices improves the teaching method quality, creating a reassuring, emotional and communicative environment that stimulates and includes students.

In this way, Liceo Scientifico 'Salvemini' not only follows the Ministry of Education rules and programmes but meets also the real need of an inclusive environment where teachers, students and families meet and create positive and pedagogical relationships.

The following National and local laws and projects are some out of which liceo scientifico Salvemini's staff has worked on for its school teaching plan for inclusiveness

- Ministerial Decree dated 27/12/2012 and Ministerial Memo no. 8 dated 06.03.2013 (assuming the Annual Plan for Inclusiveness relative to the certified disability, to DSA, to the socio-economical and linguistic-cultural disadvantage).

- In school year 2013/14 'G. Salvemini' High School prepared its 'Annual Plan for Inclusiveness'. Public notice no.3/2013 - PO FSE Puglia 2007-2013 Project "RIGHTS TO SCHOOL", Interventions to qualify the school system and prevent the dropout, promoting academic success, by giving priority to the disadvantaged persons attending 'G. Salvemini' during the school years 2011/12 and 2013/14.

- the DGR no.1705 dated 17/09/2013 "Working plan for the realization of preventing measures and fighting violence against women ", (R.L. 19 / 2006 and 7/2007), for the realization of activities promoting the awareness of the younger generation towards early prevention and effective fighting against the spread of the phenomenon.

- communication campaign "TOO BAD LOVE", which accompanies the process of participatory drafting of the Regional Law about the violence against women, and for whose final version the secondary school students were involved with a contest in which 'G. Salvemini' High School took part with a lot of ideas in the school year 2013/14.

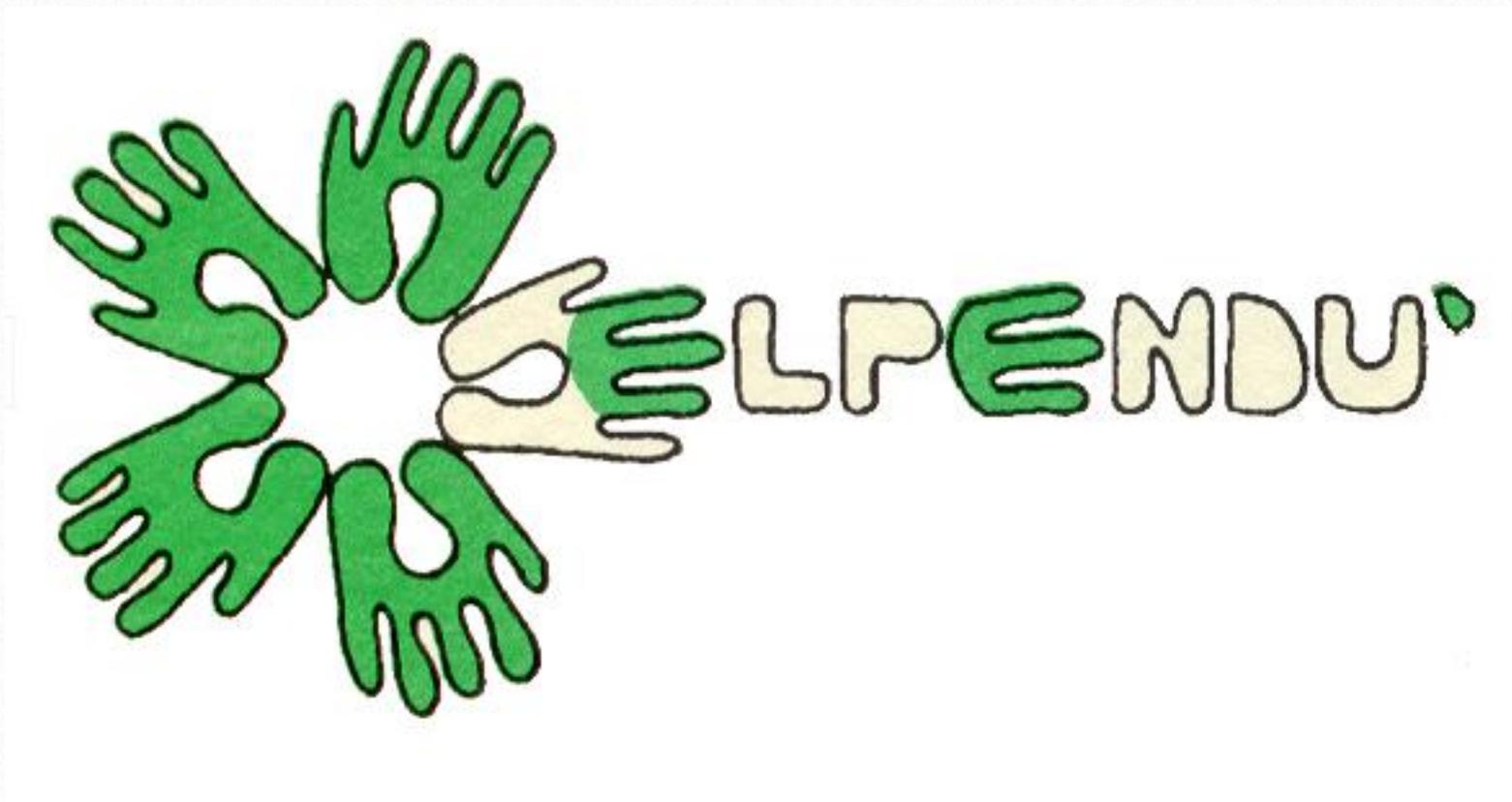
- the DGR dated 3/12/2013 no. 2328: Project 'All young people are a resource' which follows the DGR no.1993/2005 by which the Apulian Region established the "Hot Spirits" programme and following resolutions, no. 175/2008, no. 778/2011, no.2788 / 2012 with the objective of allowing young Apulian people to carry out experiences of informal and non-formal education, to enhance their competences, to deve-

lop their personal and professional projects, and, at the same time, to take active part to the development of their territory through an intelligent integration of regional, national and European policies.

# 2

## Chapter 2

GOOD PRACTICES IMPLEMENTED  
BY ELPENDÚ



ELPENDU' has shared the following good practices with the LeGoP project partners, that it implements in its activity and are also part of its quality certification :

1. development, implementation and diffusion of interventions and tools to prevent gender-based discriminations and promote women's professional inclusion and the implementation of gender equal opportunities;

2. Planning and realization of innovative interventions aimed at social-professional inclusion and at the full exertion of citizenship rights by people with special needs with the support by technological devices.

Tools and Procedures in the field of Equal Opportunities and Active Inclusion

- ISO 9001:2008 Certification for the implementation of gender equal opportunities and of equal opportunities for vulnerable people;

- Establishment of the Guarantor of Gender Equal Opportunities, who is invited to attend all Board of Directors meetings of the Consorzio;

Establishment of the Guarantor of Equal Opportunities for vulnerable people, who is invited to attend all Board of Directors meetings of the Consorzio

Projects, Researches and Experimentations in the field of Equal Opportunities and Active Inclusion

Reconciliation tools : the gender sustainability indicator

**OBJECTIVES AND ACTIONS:**

- Understanding the measurable effects of regional actions in the field of reconciliation of life/work times;

- Experimentation and standardization of a new tool for policy assessment and, in general, to analyse the themes of reconciliation at regional level: the Gender Sustainability Index (ISG), that represents an analytical tool allowing to assess the attention paid to the themes of reconciliation, by a territorial system, considered in its productive and socio-economic components.

**C.L.A.C. CONCILIAZIONE, LAVORO & CURA**

(Work and care reconciliation)

Project funded by the Puglia Region under the Gender Social Covenants and implemented from May 2011 – April 2013 by a partnership composed of Province of Brindisi, Cittadella della Ricerca, Confcooperative Brindisi, LegaCooperative Puglia, Trade Unions, Confindustria Brindisi, Associations.

## ACTIVITIES

- Sociodemographic analysis and research on needs and offer of services
- Governance: diffusion of tools for social & gender budgeting; training; mapping the opening hours of offices, shops, etc.
- Experimentation of:
  - Models for conciliation of labour and private/family life
  - Flexible access to services
  - Low threshold support services
  - Practices of co-operation and sharing in the work of care

## “R.E.P. & G”

Project funded by the Department of Equal Opportunities, Presidency of the Council of Ministers and implemented from August 2011 to July 2012 by Elpendù in collaboration with the Commission for Gender Equal Opportunities of Legacoop Puglia

## ACTIVITIES

- Carrying out a research on equal opportunities policies and good practices implemented by the social cooperatives associated to Elpendù

- Boosting the implementation of positive actions i.e. in getting the quality certification for the “Implementation of gender equal opportunities and dissemination of good practices in the associated cooperatives” according to the ISO 9001:2008 norm.

Projects in the field of Research and experimentation of innovative solutions to improve the quality of life of people with special needs

AL.TR.U.I.S.M. - Alzheimer patient's home rehabilitation by a Virtual Personal TRainer-based UNique Information System Monitoring

Project funded by the Puglia Region under the ERDF – call to support regional partnerships for innovation and implemented from July 2012 to April 2014 by a partnership composed of private innovative companies, research centers, non-profit companies and addressed to Alzheimer patients.

## OBJECTIVES

Realizing a mixed service allowing patients to autonomously and correctly follow the personalized therapy at home and the health care providers to take care of more patients and in a more effective way, through real-time remote monitoring.

## ACTIVITIES

Developing a home rehabilitation system through the aid by a Virtual Personal Trainer that will allow the execution of rehabilitation exercises and the remote assessment of the progresses achieved;

Arranging a kit composed of an electronic device able to detect biometric parameters, a set-top box connected to TV and to the Internet, a camera able to recognize the patient's gestures.

SIS.T.A.ST. SIStema Tecnologico per l'Assistenza Territoriale

Project funded by the Puglia Region under the OP 2007-2013 AXIS I Line 1.1 – “Aids to promote research in SMEs” (ERDF) and implemented from September 2009 to September 2011

As a project of industrial research and experimental development, it aimed at developing a “technologic system” to assist people on a given territory by providing useful logistic information and essential data on emergency services. The “technologic system” is composed of sensors, hardware and software to implement wearable systems of augmented reality and applicative models addressed to citizens, workers, travelers, tourists, systems enterprises, software houses and companies designing and delivering services of territorial assistance and guidance.

The project has developed a demo application that has been tested in a real environment to provide real services.

It is now adopted by ELPENDÙ and its associated social cooperatives working all over the regional territory for their social purposes.

It allows to provide guidance to national and international travelers, particularly those with disabilities and their families.

## TRAVELLERS' NEEDS

Project funded by the Puglia Region – Councillorship of Social Solidarity under the Public Call for innovative and experimental projects to increase social and socio-health services on the Apulia region (ERDF). It was implemented from September 2009 to February 2011 and aimed at enabling travelers with special needs to move all along the target territory (Apulia region) without meeting undesired surprises and help them to overcome possible difficulties, thanks to the provision of various information through adapted mobile phones.

The objective was to automatically provide a set of qualified information on the ongoing journey, in the exact place where the person with special needs is located.

# 3

## Chapter 3

GOOD PRACTICES IMPLEMENTED  
BY GALE

# GALE

THE GLOBAL ALLIANCE  
FOR LGBT EDUCATION

The good practice implemented by GALE taken into consideration in the course of the LeGoP project consists in the design, diffusion and implementation of tools and strategies to prevent, identify, handle and fight against discrimination phenomena based on sexual orientations.

## Right to education project

The Dutch government has prioritized to combat discrimination against lesbian, gay, bisexual and transgender people and intends to strengthen its supportive role in the international arena in this area. In this context, the Dutch government funds the GALE Foundation for a project on the Right to Education. In two earlier projects with the same name, GALE forged a cooperation with UNESCO and stimulated and supported UNESCO to start a global research and consultancy project. This third project runs in 2015 and 2016. The focus is on:

1. mapping the implementation of the right to education
2. to stimulate local LGBTI activists to develop a high impact strategy
3. to stimulate cooperation between activists, the education sector and authorities
4. and to stimulate and support the creation of national strategic committees on education and sexual diversity (GALE Committees)

Activities are:

- Develop a GALE World Map and publish it on IDAHO (17 May)
- Develop a GALE Committee Guide
- Call GALE members to create GALE / educational strategic committees and support this
- Facilitate 6 strategic workshops in countries that will most benefit from a shift towards a more strategic approach
- Support strategy with simple to use research tools

- Advocate for the right to education for LGBTI in the international arena

GALE has also participated in the “AR.E.S: ARTistic Educational System for the Social Inclusion of young Lesbian, Gay, Bisexual and Transgender adults”

project supported by the Grundtvig Program, which allowed to establish a network of artists, teachers, youth workers and youth interested in studying the relationship between art, media and LGBTI emancipation, and promoted a good use of art and media in formal and informal education. AR.E.S. was implemented from August 2013 to July 2015 and it was aimed to develop adult educational strategies for the social inclusion of young adult LGBT people. In this project, artistic and cultural media (ACM) were used like cinema and theatre, since there is evidence that ACM can play a role in addressing social exclusion, ignorance and misrepresentation of sexual diversity. Meetings were organized in the project involving project partners and learners to discuss the role of sexual diversity in films and how to use films in an educational way. Next to the partners themselves, discussions will take learners with them to meetings. The experiences led to the development of ways to create non-formal learning process by analysis of the contents (screenplays, plays and video) of LGBT artistic and cultural media. The project promoted also a dialogue between local government, adult education providers, cultural associations, experts with LGBT associations concerning public policies to tackle homophobia and transphobia using ACM as a vehicle.

Apart from GALE the project involved other 4 partners:

1. ENFAP Toscana – Italy ([www.enfap-toscana.org](http://www.enfap-toscana.org)): training center of a trade union
2. RINOVA Ltd – United Kingdom, ([www.rinova.co.uk](http://www.rinova.co.uk)): training center for young adults
3. SEKU - Estonia ([www.seky.ee](http://www.seky.ee)): LGBT advocacy organization

4. Szczecinskie Centrum Edukacyjne Sp z o.o. – Poland. ([www.sce.com.pl](http://www.sce.com.pl)): training center for young adults

Here follow links to download project international products:

- ARES 2nd Press release (recommendation to focus on training)
- ARES Educational Guideline (suggestions how to use film to combat homophobia)
- ARES Portfolio (format to describe acquired competences)
- ARES 1st Press Release (project announcement)
- ARES Project Brochure (short description of the project)

Newsletters:

- ARES Update no. 4
- ARES Update no. 3
- ARES Update no. 2
- ARES Update no. 1

Here follow links to download products of GALE based on experiences in the Netherlands:

- ARES leaflet Netherlands
- CASE STUDY Amsterdam Film Days 2014
- CASE STUDY "Geen Gezicht" workshops 2014

- (Dutch) Research report "Het probleem is groter dan soms lijkt" (2014) on opinions of MBO students and their teachers
- CASE STUDY ARES Workshop Hyperion College 2015
- CASE STUDY International Workshop on Criteria for a Good Educational Film (22 May 2015)
- Report ARES Dissemination workshop Amsterdam (3 July 2015)
- Tentative criteria for a good educational film (short version)

Between 2011 and 2013 GALE participated in the NISO project. This project developed a toolkit for a 6 to 12 weeks long curriculum about respect, human rights, sexual diversity and media; Voice OUT. Part of the curriculum is that students were asked and trained to make a short video commercial about human rights including LGBT issues. In each countries, 3 to 5 schools and youth centres took part. In every school there was a contest about which video was the best one. At the end of the project there were national symposia where the best video's of all schools were selected. Finally, the students who made the winning video's met together in Brussels and developed a white paper on how the European Parliament should tackle LGBT issues in schools. This white paper was presented to members of the EU parliament.

All documents and products of the NISO project can be found here: <http://www.nisoproject.eu/>.

Between 2002 and 2004 the mother organization of GALE, Empowerment Lifestyle Services, worked together with a European team "TRIANGLE" to develop a manual about how to educate and coach about gay and lesbian issues in multicultural situations. The manual was pretested among a few hundred teachers in 5 countries.

The manual can be found here:

<http://www.gale.info/en/database/different-in-more-ways-than-one>

The GALE Foundation offers training in four areas:

1. strategic workshops
2. teacher training / peer education training
3. school consultancy
4. research on sexual diversity in schools

### Strategic workshops

The objective of strategic workshops is to assess the level of implementation of the right to education for LGBTI students by the State, to analyze the opportunities to enhance the situation and to guide a cooperation between sectors. Ideally, the participants are 30% from the government, 30% from key positions in the education sector and 30% educational experts from LGBTI organizations. In most cases, this ideal is not feasible. In such cases, it is best to look for at least some distribution across sectors.

Strategic workshops usually take one day, but can be minimized to 4 hours or elaborated to two days. Here you can download a model program of a one day strategic workshop. However, a good program works best when it is tailored to the actual participants.

The GALE Foundation can offer facilitation of a number of strategic workshops for free until the end of 2016. We thank the Dutch government for making this possible. GALE gives priority to countries with a good potential for change and a willingness to engage in the international coalition for LGBTI policy the Dutch government is helping to create

Participants' comments on strategic workshops:

Teacher training & peer education training

The core of the GALE Foundation trainings is how you concretely deal with negative responses. This training focuses on how you do that in personal contacts and in the classroom.

### School consultancy

For schools and activist consultants GALE offers training on how to make their schools safer and how to improve their diversity policy. Of course we focus on sexual diversity, but the starting points and methods are easily applicable to school safety on the whole and dealing with diversity in general. Still, our training is quite different from regular "diversity trainings" because it goes more in depth about social exclusion and how to tackle it in schools and youth organizations. The content of the training focuses on school management and strategically planning a comprehensive change.

### Research on sexual diversity in schools

The research training helps you to make a start with developing your own research plan and to develop your own research tools. During this tailored development of your own plans, we go through the choices you have to make and the pitfalls you should avoid.



A workshop lead by GALE focused on the analysis of the replies to the questionnaire administered to Italian, Spanish and Dutch students and teachers aimed at identifying the students' attitudes towards people with different sexual orientations compared to their own ones.



Pictures taken during the presentation of Italian and Dutch students of their recommendations on how to establish a safe environment for LGBT students in the school.



M. Schouten presenting GALE during the public seminar (multiplier event) held on 23 April 2015. During the seminar GALE staff presented the first results of the study carried out based on the replies to the questionnaires by Italian, Spanish and Dutch students and teachers



Discussion among partners' staff during the workshop organized on 24 April 2015 in Liceo Salvemini aimed at discussing particularly with teachers on the questionnaires' results. From 16 to 20 November, GALE organized an exchange meeting for the LeGoP partners in Amsterdam. GALE cooperated with the Hyperion Lyceum in Amsterdam, which hosted the event in the school and facilitated the participation of a group of students, the same who also participated in the exchange in Bari.



An expert on film and homophobia, Franka Stas, works with a student to prepare the technical equipment for video editing.



Italian and Dutch students pose at the entrance of the Van Gogh museum before entering the exhibition (17 November 2015)



Italian and Dutch student are editing scenes of a video on homophobia (17 November 2015).

On 19 November, the students were largely responsible for organizing the content and logistics of the international symposium (the multiplier event). The students took care of preparing the meeting hall, receiving the guests, having the guest sign attendance sheets, making a presentation of their recommendations, organizing round tables of teachers, parents, foreign activists, Dutch LGBT activists and Dutch experts and discussing the recommendations, reviewing the feedback of each round table and improving their recommendations.



Hyperion teacher Lean Baas is coaching some students on the management of the symposium (multiplier event) of 19 November 2015.



Amsterdam City Counselor Bert Jan Vroeghe opens the symposium (19 November 2016).



The symposium was attended by 116 people, 29 of which were international visitors (other than the LeGoP participants).



A Italian and a Dutch student present the recommendations for schools without homophobia at the start of the symposium  
(19 November 2015)



An Italian and a Dutch student present the improved recommendations at the end of the symposium (19 November 2015)



A student performs a Basque dance demonstration for the LeGoP visitors (14 March 2016).



During a tour of the school, the LeGoP visitors were shown how Axular uses technology to support special needs teaching  
(14 March 2016).



At the end of the mobility, Basque students do a public demonstration of a Basque style dance developed especially for this occasion (18 March 2016).

# 4

## Chapter 4

GOOD PRACTICES IMPLEMENTED  
BY THE SCHOOL AXULAR LIZEOA



The good practice implemented by Axular Lizeoa taken into consideration in the course of the LeGoP project concerns the use of innovative technologies in educational activities and particularly of technological devices adapted in the institute to allow the access to learning contents also to students with Special educational needs.

In Axular Lizeoa we know that new technologies are critical in the teaching-learning process, and they put all the tools within our reach, which makes it easier for us to cope with diversity.

Our main commitment to the future, but not the only one, are web platforms and 2.0 tools, given that the web platform enables us to, among other things, personalize contents and exercises for students, promote collaborative work and look after those who, due to health problems or other reasons, cannot attend school for some time. To sum up, it deals with meeting the requirements of families and society, a quality and personalized education.

That's why we work with several tools. We are going to show the most useful ones facing student diversity.

## PLATFORMS FOR ONLINE WORK

### INTEGRATED VIRTUAL CLASSROOM ([www.axular.eu](http://www.axular.eu))

It's based on the Opensource Moodle platform, to which we have added non-standard modules; it is adapted to mobile devices and connected with Google Education Edition.

#### Goal

We want to offer contents and exercises (evaluated automatically or by the teacher) that complete and complement class work. This way, the teacher can check the students' evolution and prepare different didactic itineraries according to the different needs..

## Features

Moodle is a versatile tool which enables the publishing of static (non-evaluable) contents, such as text documents, picture galleries, audio and video files and animations. The majority of them can be fed by external sources as Youtube, Picasa or Vimeo. Anyway, in our opinion, the pedagogy strength lays on the evaluable modules (questionnaires, surveys, glossaries, forums, lessons, flashcards, games, workshops, tasks,...).

Speaking about students with special needs, we highlight the possibilities provided by these modules.

### Flashcard

It's a card game that allows putting contents together (terms to be defined together with definitions, sounds with text, images with text,...) according to its level of difficulty. That way, students move the cards from the most difficult bunch (the one in the left) to the easiest (the one in the right) as they improve in their learning process.

### Game

This module produces games automatically out of definitions taken from a glossary that has been created by the teacher or that the students have created as a task. Different games can be created: Hangman, crosswords, word search, Sudokus, "snakes and ladders" and "The Millionaire".

### Workshop

This workshop module is specially useful to work crossed evaluation among equals so that the student understands the criteria used at the moment of correcting one exercise.

The way it works: the teacher provides the student with an exercise they must do within a specific time limit. It can be a file they have to upload (text, image, audio or video) or a text they must write online.

Once the deadline is reached, the program sends certain exercises made by the students (the teacher can assign the exercises or the application can choose them randomly). At the same time, the student receives a data template with the criteria and the way to mark the exercises.

Once the time is over, the teacher checks the original exercises following the same template and, finally, the program compares the evaluation of the teacher and the students and it rewards (or penalizes) the final grade according to the percentage and similarity planned by the teacher.

## Quizz

Even if this is a typical tool for exams or tests, we want to emphasize it because the degree of development and detail is remarkable. It has 56 different types of questions and lots of different ways to limit the time, attempts, the information the student will receive (during and after the exercise), the feedback, etc. We use it, above all, as a tool for self-assessment and review.

## Hot Potatoes

This well-known software for creating didactic activities is perfectly integrated with Moodle, so we can track the results, number of clicks, frequently made mistakes, and so on.

We can create different sorts of exercises: card-matching, gap-filling, crosswords and tests.

## Lesson

This module offers the chance to create personalized itineraries. That's why it's very practical for case studying. The basic idea is to give the students two or more options to choose from. Each option will show a new screen with a bunch of options. For instance, they can face ethical situations to see the consequences their decisions could generate.

### ELECTRONIC PORTFOLIO ([www.axular.eu/mahara](http://www.axular.eu/mahara))

Our e-portfolio is a tool based on the Opensource Mahara platform focused on the student. Using it, they can keep their learning evidences (documents, pictures and multimedia files), logbooks, and develop their CV.

All this work is private and it remains hidden until the student creates and shares with classmates, teachers or general public views and collections of their creations.

One example of shared reviews can be seen in the following blog, created by a group of students who work in robotics issues. <http://overclock.axular.org>

### ELKARTU ([elkartu.axular.org](http://elkartu.axular.org))

Elkartu is one platform for intergenerational cooperation based on Moodle (as our Integrated Virtual Classroom); in this case, it is run by a group of students who search technological solutions for old people's problems. The platform connects young people and their families with geriatrics professionals from Matia Foundation, who supervise the different solutions proposed.

### SARGOI ([www.sargoi.eus](http://www.sargoi.eus))

Sargoi platform emerged after an initiative created by Year 5 students, and it was rewarded by the Basque Government.

It promotes values and volunteering work of the youngest students through a social network managed by the school. Solidarity actions receive support and comments from other students, families and professionals logged in the social network. That way, children receive “medals” (from the Sargoi dragon egg until the adult dragon).

This way, the moral values and volunteer work are recognized (not only academic work). This initiative is at its pilot phase in our school, but it will soon spread all over the Basque Country.

SMART AMP ([www.smartamp.com](http://www.smartamp.com))

This application is perfectly well integrated within the Google Education Edition and it provides with a virtual space which is easy and comfortable to be used, above all by the youngest students. Apart from the most typical exercises for the whole group, the teacher uses this tool to personalize task allocations.

## DEVELOPMENT CLASSROOM

The Development Classroom is a Project which explores and applies the newest technologies in Education field. It is part of the Inclusive Smart School project sponsored by the BBK bank, Dravet Foundation and Microsoft. It's the first classroom of this type all over Spain.

This space has interactive tables and Kinect devices to go through educative activities and others as nutrition, speech therapy and expression specific support. It allows to prepare different individual work areas equipped with computers, tablets and smartphones. In this first phase, the work done in the Development Classroom will be based on a training platform with different materials and courses for the teachers, where they can also upload contents they create, which will enable the access and exchange of didactic resources.



**Italian teachers and students visit the development classroom**

Inclusive Smart School Project expects to spread with new phases to take the biggest advantage possible out of ICTs in educational integration. In a second phase, a software will be developed including medical and psychological criteria of the most common disabilities, as a teacher supporting tool. Later on, EIC BBK will create one platform to integrate voice and video so that students can participate in lessons even if they are at home or in hospital. Finally, the plan is to develop apps, games and specific contents for educational work of children with different pathologies.

## APPLICATIONS

In Elementary School we use tablets and iPads to cope with diversity. Students with special needs work with the Educational Psychologist using Apps such as the following:



**Workshop on e-learning**

## WORKING WITH NUMBERS

Hasta 100 (IOS/Android)

## ARITHMETIC OPERATIONS

Bitsboard Math (IOS)

10 monkeys multiplication (IOS/Android)



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**Presentation of  
voluntary work and  
Elkartu programmes**

Math Montessori (IOS/Android)

Math board (IOS)

**ORTOGRAPHY AND VOCABULARY**

Bitsboard (IOS)

Disegxia (IOS/Android)

Lixta (IOS/Android)

**READING**

Enséñame a leer (IOS)

**WORK TO OVERCOME FEARS**

Bye bye fears (IOS)

Yo mataré monstruos por ti (IOS/Android)

Clara ya no tiene miedo a la oscuridad (Android)



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**Basque students  
present their robotic  
project**

**LOGIC AND THINKING**

Lightbot (Web/IOS/Android)

Popplet lite

Lucidchart



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**Presentation of  
sargoi educational  
social network**

**CAPACITY FOR EXPRESSION**

Book Creator (IOS/Android)

Adobe Voice (IOS/Android)

Storybird (Web)

Story Jumper (Web)

Zimmer twins (Web)

Go animate (Web)

Move note (Web/IOS/Android)

On the left side of the pages pictures taken during the mobility organized in the month of March 2016 in the Basque Country

# 5

## Chapter 5

GOOD PRACTICES IMPLEMENTED  
BY THE ASSOCIATION GUREAK



The good practice implemented by GUREAK taken into consideration in the course of the LeGoP project consists in the development, adaptation and application of innovative tools in training and working inclusion of people with intellectual difficulties.

For Gureak creating and maintaining job chances for people with different types of disabilities is a big challenge. We have chosen innovation and new technologies as a basic way to advance in our main objective, that is social and labor market integration of people with disabilities.

We have focused on different actions and we are aware of the new chances more important and necessary from the point of view of both market and society in general.

For that purpose we have created different programs and tools in order to improve recruitment, employability and life quality of people with disabilities. Presented next, you will see some of the tools we use for labor market integration, recruitment and development of competences, which are all supported by new technologies.

## SUPPORTING SYSTEMS FOR TASK COMPLETION.

### TUTOR

Developed product

App that presents instructions in a mobile device, in a sequenced and ordered way.

Performed abilities:

- Adaptation.
- Autonomy.
- Productivity.

Life quality:

- Emotional well-being.
- Personal development.
- Self-determination.

## Goal

Helping people with disabilities to fulfill the tasks with autonomy.

## Characteristics:

App easy to use which allows monitoring in a sequenced way the instructions which have been defined beforehand.

Presenting those instructions through text, images, audio and video.

Support in place locating (through plans or pictures) and showing the time that should be invested every hour.

Incorporation of other functionalities: alerts, registrations,...

Authoring system to create tutors in an easy way without any computer knowledge.

## I-TOK

### Developed product

App for i-phone which transforms a beep sound into a graphic sign.

### Performed abilities:

- Communication.

- Autonomy.

- Productivity.

### Life quality:

- Interpersonal relationships.

- Personal development.

- Social inclusion.

## Goal

To enable people with impaired hearing to carry out postal delivery tasks.

## Characteristics

App for mobile phone, easy to use.

If the mobile is placed on the door-opener receiver, it identifies if the resident has answered to the call.

It gives the chance to answer through a pre-recorded message which is activated by pushing a button.

Through a “Settings” window, performance ranges can be set and the pre-recorded message can be inserted and selected.

## CONTENTS/APPs FOR LEARNING-TRAINING

### VIRCAP

Developed product:

Training system for gardening and landscaping activities, based on virtual reality.

Performed abilities:

- Selfcontrol.

- Self-care.

- Productivity.

Life quality:

- Emotional well-being.
- Personal development.
- Physical well-being.

Goal:

Training people with disabilities in gardening and landscaping activities in a personalized and safe way.

Characteristics

Full gardening and landscaping educational program: 6 blocks of contents, 24 teaching units and 121 contents.

40 videos for procedural knowledge transmission.

More than 200 tasks (introduction, information, implementation, consolidation, synthesis and awareness of diversity) to be carried out through group activities, CBT – 2D and 3D, Virtual Reality and real practices.

App for training integrated management (planning, monitoring, diagnosis, assessment,...) in a personalized way.

Real equipment with a sensor system: 15 devices formed to operate activities in a virtual environment.

Manager for generating incidents and new contexts for training.

Virtual Reality display system, non-intrusive, which uses a light helmet.

SIGN LANGUAGE DICTIONARY

Developed product:

Sign language web interactive dictionary which includes technical terminology daily used in the working environment in Digitalization and direct Marketing.

Performed abilities:

- Communication.
- Autonomy.
- Productivity.

Life quality:

- Interpersonal relationships.
- Personal development.
- Social inclusion.

Goal:

To improve the communication among people with and without impaired hearing.

Characteristics:

Universal access (PC, mobile, tablet,...)

Easy and accessible Interface.

Term browser and classifier.

Customizable to the required needs.

There is one space for the user to manage the system.

It includes E-learning training course, which provides the use of contents and encourages terms learning.

## DIGITAL ACCESIBLE PLATFORM

Developed product:

Digital accessible training platform.

Performed abilities:

- Communication.
- Adaptation.
- Autonomy.

Life quality:

- Interpersonal relationships.
- Personal development.

Goal:

To enable training and qualification of disabled people through a digital platform for all and every single person.

Characteristics:

The platform includes the following elements:

- o Accessible web interface (Gureak-Akademi.net).
- o Moodle information managing system (LMS).
- o Backoffice that allows platform management.

o Digital document manager for training resources library.

Different areas for learning: Courses, Library, cafeteria (with 2.0 tools), games, (memory and action), news, tutor area.

Two access systems: the usual one (user and password) and another one using a USB memory stick and pictographs.

Compliance of usability and accessibility patterns: WAI-AA, XHTML 1.0, CSS level2 and NI4 protocol (easy browsing).

It is linked to the company's personnel management application for training planning and monitoring.

Bilingual.

## ASSEMBLY TRAINING

Developed product:

App created to produce training contents for forming handicapped people in different tasks, before their inclusion into the assembly line.

Performed abilities:

- Communication.
- Autonomy.
- Productivity.

Life quality:

- Interpersonal relationships.
- Personal development.
- Social inclusion.

Goal:

Agile manufacturing of training multimedia contents for task learning.

Characteristics:

Web application easy to manage by people with no computer knowledge.

Designed to be operated with tactile screens.

It allows image, video, and sound integration.

The contents that have been created are organized in three levels:

- o Training: Instructions for the task that must be carried out, using a video.
- o Simulation: Quality, positioning, orientation, EPI to be used...
- o Assessment: it detects if the person has obtained qualification.

It allows training of handicapped people in a personalized way, in specific procedures. They are incorporated into the production process once they are qualified.

It allows checking and monitoring the users through inspections and screens created for that purpose.

CONTENTS/APPs FOR COMMUNICATION AND INFORMATION ACCESS IMPROVEMENT

GURESARE

Developed product:

Accessible information point with a touchscreen, formed by different modules that put adapted information together (easy Reading text, images, videos,...) to which the user can access easily.

Performed abilities :

- Communication.
- Rights.
- Autonomy.

Life quality:

- Self-determinationn.
- Social inclusion.
- Rights.

Goal:

To enable communication and information access mainly for people with intellectual disability.

Characteristics

Modular system which permits adaptation and expansion according to the customers' needs.

Access patterns following UNE 139802:2003 standard, Universal Design basis and NI4 Protocol recommendations for easy browsing of people with intellectual disability.

Easy and tactile interface.

It enables presenting the information and contents through different formats: text, spreadsheet, pdf, video, image, sign language linked to a text,...

It allows synchronic communication via Skype videoconference or asynchronous communication via e-mail.

Managing system for remote information posting.

Warning system.

Bilingual.

### Italian teachers and students visit the “GRUPOGUREAK” structures



# 6 Guidelines, policy recommendation and other good practices implemented in the partner countries

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These guidelines are aimed to transfer the good practices implemented by the LeGoP partners and described in this document in other contexts (other organizations in the partner countries as well as in other countries).

In order to better suggest possible policy recommendations to allow the proposed transfer, we provide hereunder a brief introduction on the relevant legal framework characterizing the partner countries that have favoured the implementation of the described good practices.

We have also mentioned other best practices implemented in the fields tackled by the project in the partners' countries.

Finally, we have provided useful recommendations to be shared with policy-makers of the territories on which the relevant good practice shall be transferred, to promote its adoption and remove possible obstacles/barriers to its implementation and diffusion.

## a. INCLUSION OF PEOPLE WITH DISABILITIES

First of all, we describe the legal frameworks and practices implemented in the countries concerned, which regulate the inclusion of people with disabilities in education, work and society in general.

### ITALY

The Italian law on social and work inclusion of disabled people includes, apart from the constitutional law (Article 3 on formal and substantial equality of citizens), the law n. 482

of 1968, which was not fully enforced until the nineties. Indeed, notwithstanding the numerical objectives proposed, it proved to be ineffective and was unapplied in the results.

The real “start” in the field of social inclusion of disabled people was the issue of the Law n. 68 of 1999 that, even in continuity with the principles of the Law 482/1968, which already affirmed that the right to work of disabled people had to be respected by obliging employers to ensure the access to a recruitment quota for this category of workers proportional to the number of the other employees composing the company staff, introduces strong elements of innovation in the Italian context.

Indeed, the new law marks an important difference compared to the law 482/68 in terms of methodologies applied to help disabled people start their job: it is based on the attempt to overcome the mere obligation of employing a certain number of disabled people that characterizes the old law, focusing on the adoption of several tools typical of the active labour market policies.

The Law 68/99 has the dual objective of responding to the employment need of the population with disabilities without turning this into a mere cost for companies and public bodies subjected to the obligation but considering it as a profitable integration of productive individuals. The philosophy that underlies this rule is that the employment start shall be achieved by matching the characteristics of a disabled person and those of a task in which the person can actually be employed, thus responding to the needs of both the parties involved (unemployed disabled persons and employers ) and expanding the possibilities of success and time duration of the job, believing that only the integration in "real" jobs, in accordance with the person's possibilities, capabilities and limitations, can satisfy the need to include people not only in terms of economic independence, but in terms of human dignity.

The law identifies the "recruitment targets" as the central tool to achieve this type of integration:

"by disability recruitment targets we mean that series of technical tools and of support that allow to properly assess people with disabilities in terms of work skills and to integrate them in the appropriate place, through job analysis, forms of support, positive actions and

solutions to the problems associated with the environments, tools and interpersonal relationships at the everyday workplaces and relationships places. " (Law . No. 68/99 art.2 ) "

The aim of recruitment targets is therefore not only to identify a correct match between the characteristics of the individual and those of the job, but, if this is not immediately possible, to put in place a series of resources and services designed to enable both the person to adapt his/her skills and the company to take action on structural and work organization aspects to make the designated task accessible.

This is not a novelty of the law 68/99, not only because it follows in the wake of the more general reform of the ordinary placement implemented in the same historical period , but also because it reflects the content of the law 104 of February 5, 1992 "Legge-quadro per l'assistenza, l'integrazione sociale e i diritti delle persone handicappate" (Framework Law for the assistance, social integration and rights of handicapped people), which stipulates that "the assessment of the handicapped person takes into account the work and relational skills of the individual and not only the physical or psychic impairment" .

The individuals protected by law 68/99 are:

- People of working age affected by physical, mental or sensory impairments or with an intellectual disability, who have been recognized as legally disabled with a reduced capacity to work higher than 45%;
- People who became invalid due to accidents at work with a degree of disability higher than 33 %;
- blind and deaf and dumb people;
- People who became invalid due to war injury or accidents occurred while performing civil service (from the I to the VIII category).

Unlike the old law, the mentally disabled are also included among the protected individuals, following the declaration of unconstitutionality of such discrimination and explication, already in the law 104/1992, of the extension of the rules on mandatory employment for people with mental disabilities .

Those obliged to hire disabled people are the public and private employers who employ more than 15 employees. In particular, they are obliged to hire:

- One disabled worker if they employ between 15 and 35 people;
- two disabled workers if they employ between 36 and 50 people;
- the 7% of disabled workers out of the total number of employees for those who employ more than 50 people.

To hire a disabled person in compliance with the legal requirements, employers must apply to the relevant offices. Unless there is a specific agreement (explained below ) applications to recruit disabled people must indicate the person's name (thus they shall be based on a direct call) :

- for employers who employ 15 to 35 employees, as well as for political parties , trade unions and social organizations and bodies promoted by the latter;
- For one of the two people that the employers have to hire if the employ between 36 and 50 people ;
- For the 60 % of the people hired when employers employ more than 50 people.

Employers must send the application to recruit disabled people within sixty days from the onset of the obligation and they shall specify the required qualification. The competent office is required to start workers with this qualification if they are enrolled in the relevant lists. In the case there are not workers with the required qualification, the employer shall agree on an alternative professional on the basis of those included in the lists. In the case they could not find any worker endowed with suitable qualifications, the employer shall sign a work placement agreement including the provision of training courses (through internship) aimed at helping a worker with similar qualifications to acquire the skills necessary to perform the required job tasks (law 68/99 article 7 and implementation Regulations articles 6-8).

People with psychiatric disability can start working only upon individual request under specific agreements, considering the peculiar difficulties implied in the integration of this type of workers and the need to activate accompanying and supporting services.

The aforementioned agreements, even though existing at the regional level also in the previous legislation, acquire a certainly significant role in the Law 68/99 and add new rules on the modalities to accomplish the recruitment obligation.

The agreement is a pact for employment between an employer and the competent offices, establishing "the timing and modalities that the employer undertake to adopt" The agreement gives the possibility to access some tools to allow the inclusion and make the employment relationship more flexible. Apart from these agreements, there are also other two possible forms of convention to agree upon compulsory recruitment.

The first is the "Convenzione di integrazione lavorativa" (Agreement on work integration), aimed at integrating disabled people with peculiar difficulties in the productive cycle. This type of agreement provides for the activation of measures of support by territorial services, professional guidance centers and facilities managed by Third sector organizations.

The second is the agreement between private employers and social cooperatives of "B" type (identified by the Law n. 381 of 1991 that will be described further on) or with disabled self-employed professionals. This agreement allows the relocation of the disabled worker in these facilities for one year (renewable for maximum two years).

Conditions necessary for this to happen is that the employee is hired with an open-ended contract by the employer subjected to the obligation (although for the period of relocation the salary and the social security contributions are paid by the facility that hosts the disabled worker). Furthermore, the employer shall assign to the cooperative or self-employed person, enough jobs to compensate for the overall cost of the worker and that there is, finally, a personalized training plan.

Furthermore, the agreements are also the tools through which tax concessions may be granted to private employers who fulfill the obligations by hiring disabled persons with requirements that make them more difficult to be employed.

A final significant aspect of the new law is the definition of a new system of penalties: in the case employers do not comply with the recruitment obligations (for reasons that depend on them) they have to pay not negligible penalties.

More specifically, they have to pay to the "Regional Fund for Disabled people Employment" a fixed fee for each day that the disabled person has not worked and for each disabled worker that has not been employed. These amounts are subject to revision every five years by ministerial decree.

The Fund for the right to work of Disabled people is a tool to incentivize employers who hire disabled workers in the framework of agreements signed according to the modalities provided for by the Article 11 of the Law n. 68 mentioned above. This Fund has financed, until the year 2008, the measures for exemption of social security contributions that should have been paid by the employer and of the costs arising from compulsory insurance against accidents at work for disabled trainees as well as the lump-sum partial reimbursement of costs incurred for the adaptation of the workplace .

The exemption of social security and insurance contributions could be total or partial according to the degree of reduction of the working capacity or the handicap of the disabled person hired. It has represented one of the main innovations introduced by the Law n. 68/99 representing a valid tool to facilitate work integration of disabled people with serious limitations. The Law n. 247 of 29 December 2007, has modified the Article 13 of the Law n. 68/99 providing for a contribution to the employers for each disabled person employed under an open-end contract based on the agreements specified at the article 11 of the same Law n. 68 of 1999.

The subsidy introduced by the new regulations has resulted in a quantitative and qualitative change of the benefits, without modifying the subjective prerequisites entitling people to benefit from them. Furthermore, the economic facilitation on the partial reimbursement of costs incurred for the adaptation of the workplace is also entirely confirmed.

The contribution , graduated according to the percentage of reduced capacity to work or handicap ascribed to the disabled person hired, has been set at two measures : the one not higher than 25% of the wage cost for people with less serious disabilities and the ot-

her equal to the 60% of the wage costs for workers with more severe disabilities. The condition for granting the employer the contribution for each disabled worker is that the latter were hired under an open-end job contract and that the employment relationship is still ongoing.

This is motivated by the very aim of the European Regulations which recommends Member States to consider state aid as a tool not only for the recruitment of disabled people, but also to maintain them at work.

As already stated before, a cornerstone for the effective application of the law n. 68/1999 is to rely upon social cooperatives established according to the law n. 381/1991.

This law defines, first of all two types of cooperatives: those of type A, that manage social, health and educational services addressed also to people with disabilities and those of type B, which carry out agricultural, industrial or commercial activities or provide service through the work performed also by “underprivileged people”. Furthermore, it defined the categories of “underprivileged people” even before the law n. 68/1999 entered into force, adding among those in need of employment protection, apart from the categories of invalidity that were then included in the law n. 68, also the former patients of psychiatric institutions, people under psychiatric treatment, drug addicts, alcoholics, minors of working age in difficult family situations and convicts admitted to alternative measures to detention. The total number of people belonging to these categories must equal, in social cooperatives of type B, at least the 30% of workers, and they shall be members of the cooperative itself, compatibly with their subjective condition.

The legal form of social cooperative of type B combines the aspect of producing goods and services, that is typical of any business, with the social need to promote the work integration of some people who, due to their condition, may have great difficulties (so called mutualistic purpose) .

This aim is pursued keeping in mind that the social cooperative is a body that, even by performing a business activity, is a nonprofit organization since it does not divide the profits

among its members, but it uses them to pursue the solidaristic purpose of working inclusion of disadvantaged people, also by, if necessary, planning more flexible or reduced working time for disadvantaged people.

The purposes mentioned above can be pursued also thanks to some benefits granted to these bodies. In fact, social cooperatives, are defined ONLUS by law (according to the Article 10 of Legislative Decree 460/1997), that is non-profit organizations of social welfare and therefore subject to different and more favorable tax and fiscal conditions.

In addition, the overall rates of contributions for compulsory social security and welfare insurance due by social cooperatives to disadvantaged workers, are reduced to zero. Then, as previously mentioned, through the agreements referred to in Articles 12 and 12a of Law no. 68/99 specific agreements may be signed between employment centers and the employers obliged to hire disabled people who can perform, at least for a certain period of time, their working tasks in social cooperatives which should ensure more gradual and flexible work integration.

On the other hand, the existence of such strong provisions by law has not turned into their full application because, if we analyze the compliance with these laws, we notice that in Italy, at present, the rates of non-compliance with such obligations are really high, thus companies prefer to pay fines – the few times they are inflicted - rather than employing a disabled person. Then, on the cultural level, in times of crisis, the idea that a disabled person at work is an additional problem and never a resource is widespread.

The latest statistics available, based on ISTAT data and included in the VI Report by the Ministry of Labour and Welfare Policies to the Parliament on the implementation of Law 68/1999 show that disabled people of working age employed in Italy are less than 18 percent. A figure that drops dramatically if the person to hire has cognitive or psychic difficulties: only 1.5 of those with functional deficits is employed.

Some targeted legislative measures have been introduced to remedy to these little encouraging data, but their effects are not visible in concrete terms yet.

The so-called "Biagi law" (Legislative Decree no. 276/2003 , as amended) introduced, with the Article 14 , a system that provides for the possibility for companies to meet the obligations set out in Law 68/1999 also through a real "delegation" to social cooperatives of type B to hire the disabled person. In this case , in fact, the disabled person is employed by the social cooperative which receives work orders by the company subjected to the obligation and, in this way, the obligation is fulfilled.

Employment centers, the most representative associations of employers and trade unions at local level and associations of representation, protection and assistance of social cooperatives of type B (of work integration) or social consortia may sign framework agreements at territorial level which must be validated by regional governments, for the integration of disadvantaged workers in social cooperatives which private employers give orders to.

If disadvantaged workers are disabled they may be counted as part of the reserve quota by private employers .

The Framework agreement rules the following aspects :

a) the modalities of subscription by the companies concerned;

b ) criteria for the identification of disadvantaged workers to be integrated in the cooperative; the identification of the disabled people will be undertaken by the services referred to in Article 6 , paragraph 1 , of the law 12 March 1999 n. 68 (services for compulsory employment)

c ) the procedures to testify the overall value of job orders yearly assigned by each company and the correlation with the number of disadvantaged workers integrated in the cooperative;

d ) the determination of the calculation coefficient of the unitary value of the orders (for the calculation referred to at the paragraph 3 of Article 14 of the Decree that provides for the possibility of covering the reserve quota of employers subjected to the obligation to hire disabled people through such agreements), according to the criteria of congruity with the labour costs defined in the collective agreements applied by social cooperatives ;

- e) the promotion and development of work orders assigned to social cooperatives;
- f ) the eventual establishment, even within the social agency referred to in Article 13, of a technical- operational nonprofit body to support the activities provided for by the agreement;
- g ) the limits of the maximum percentage to cover the compulsory quota through the agreement.

Finally, very recently the ANAC - National Authority Against Corruption has declared the intention, confirmed by the new legislation on public procurements and work assignments, to reserve public works to social cooperatives with the aim of work integration of disadvantaged people (see Document entitled " Linee Guida per gli Affidamenti alle Cooperative Sociali ai sensi dell'art. 5, comma 1, della Legge 381/1991" - Guidelines for work assignments to Social Cooperatives in accordance with Article 5 , paragraph 1 , of Law 381/1991) .

## NATIONAL AND LOCAL BEST PRACTICES

From the point of view of good practice aimed at implementing a system to support and promote social inclusion, since 2007 innovative and experimental experiences have been undertaken in Italy, supported by European structural funds .

In fact, since the seven-years EU programming period 2007 - 2013 , the partnership agreements signed with the EU and the consequent policy papers have aimed at a progressive increase in the investments to support active social and working inclusion of people with disabilities, particularly through research and technological development actions aimed at improving the quality of life.

These intentions have produced positive actions especially in Puglia , which can be defined as one of the best interpreters of this strategy through a strong investment in measures that has financed research and development of prototypes , processes and products aimed at overcoming any kind of barriers caused by disability.

Among these positive actions we shortly describe hereunder the following:

## - Pre-Commercial Public Procurement (PCP)

Public Procurement for the realization of various research and development activities aimed at planning, production and experimentation of product/service prototypes that are not yet suitable for commercial purposes but that could be introduced on the market soon after their improvement and industrialization.

Puglia Region has selected the field of Independent living and highlighted relevant needs concerning 2 main thematic areas:

1. Assistance and Inclusion;
2. Safety and health.

Regional Partnerships for Innovation, that aimed at promoting the establishment of public-private technology partnerships to implement regional research and innovation programs in order to properly position Puglia in the framework of the growth perspectives of Europe 2020 by implementing Smart Specialization strategies of the regional manufacturing base. The Regional Partnerships for Innovation were characterized by the clear identification of technological needs by companies and/or clusters of companies, by strong interdisciplinary and integration contents aimed at contributing to the local development process in specialization areas, through activities of industrial research, experimental development and involvement of young researchers. The projects had to be implemented by one or more companies and one or more research organizations and be realized in the fields identified by the Regional strategy for Research and Innovation, which included that of ICT.

Technologic Clusters, that is an action linking the programming period 2007-2013 and the new one. Thus it is a «Bridge initiative» included in the pathway that leads to design and strengthen the regional strategy for research and innovation based on Smart Specialization for the programming period of structural funds 2014-2020, SmartPuglia2020. It aims at strengthening critical masses of competences in the three Areas identified by the SmartPuglia2020 Strategy (Sustainable Manufacturing, Human and Environmental Health and Digital, creative and inclusive Communities) in order to strengthen their capacity to attract investments and talents and establish long-lasting national and super-national networks.

Projects of Ambient Assisted Living (PR.A.A.L.) which consists in providing financial contribution to buy social domotics technologies (AAL - Ambient Assisted Living) aimed at achieving independent living in a safer home environment, allowing telemonitoring of vital functions for people who are not autonomous, coherently with project fields concerning Ambient Assisted Living, addressed to people over 65 who are not autonomous and have permanent limitations in motor capacities or in their Daily life activities.

Living Labs that were aimed at testing a new approach to research and innovation activities in which users actively participate in the process of development and experimentation of new solutions addressed to the inhabitants of a given territory. Through the exchange of ideas and knowledge and networking between researchers, companies and organized groups of citizens, specifications for new products and services are defined, the first prototypes are assessed and innovative technological solutions are tested. There are more than 300 Living Labs across Europe which prompt innovation, provide opportunity for economic, social and cultural development and transfer research from laboratories to real life, where citizens become "co-developers". The best ICT solutions are sought in the domains of Environment; Security and Territorial Protection; Cultural Heritage and Tourism; Digital Creative Economy; renewable and competitive energy; Electronic government for the PA; Education and training; Transport and sustainable mobility; Health, well-being and socio-cultural dynamics.

Interested actors could input needs and register in the catalogue by electronic means linking to [www.sistema.puglia.it](http://www.sistema.puglia.it) , (at present, about 400 needs are described in the eight domains and about 200 actors were included in the partner catalogue).

Under the first call for proposals three types of different activities have received financial support which were differentiated according to the relevant end-user categories involved in the partnership that was established to start the Living Lab:

- Smart Cities & Community: end users represented by public and private entities active on urban scale able to trigger innovation policies based on the enhancement and strengthening of the active participation of citizens and of existing tangible and intangible infrastructures existing on their territory (municipalities, public institutions, museums, associations of public entities, associations and representative bodies of collective and social

needs, Trade Unions, Associations for consumers protection, economic associations of public interest, etc.) .

- Knowledge Community: final users represented by actors involved in the production, management and exchange of knowledge and innovation (regional technological districts, competence centers, training institutions, research bodies, regional laboratories networks, public-private partnerships, etc. ).

- Business Community: final users represented by actors in the economic, production and production services (Regional Industrial Clusters, networks of companies, big companies, economic associations, employers' associations and trade unions, etc. ) .

Complementary to the Living Lab system, then, the Living Labs community was established, a virtual space for discussion and exchange. In the informational part it is possible to get all the detailed information on the project as well as news on the living labs activities in Puglia, in Italy and all over the world, along with information about the activities and events of the European Union in matters of interest. The participatory part of the Living Labs Cafe, allows to get detailed information on every single living lab activated and on ICT research and development projects already funded by the Apulia Region. It is possible to search for needs already inputted, consult the catalogue of partners, thematic studies, multimedia materials, videos, presentation slides, photographs of events. In the Open Community section, a permanent forum for discussion is active on research and innovation in Puglia, where the actors of the three communities can express their views and offer ideas and suggestions, submitting them to collective reflection. Finally, there is a blog connected to the relevant pages on social networks: Facebook (<https://www.facebook.com/ApulianICTLivingLab>) and Twitter (<https://twitter.com/ICTLivingLabsRP>), where users can freely discuss on the emerged needs and the identified solutions, present other ideas or projects "in search of an author", in a wider community which may be part collective design. The goal is to bring innovation outside the closed research and development laboratories and expose it to contaminations with the market, civil society, the institutional system, to create a "living community" that can, together, invent, design, test and show innovation.

Finally, this innovative strategy tested for the first time in Puglia in the programming period 2007-2013 has generated a real "ICT cultural movement " which reaches its peak since few years in the "Regional Festival of Innovation", when the City Center of Bari becomes every two years protagonist of an event aimed to discover research and innovation results and understanding the trajectories of the future.

The Festival is the occasion to closely know the protagonists of innovation: researchers, companies, young talents, administrations that are building the Smart Puglia able to compete at global level, through:

- scientific Workshops and games;
- Exhibit;
- Experiences of «making»;
- Interactive shows;
- workshops and events.

In the programming period 2007-2013, therefore, a social innovation policy has been tested which has become a strategy in the programming period 2014-2020.

Indeed, the National Strategic Planning Framework 2014 - 2020 which has resulted in the Partnership Agreement signed between the Italian State and the European Commission, contains various explicit references to this strategy.

First of all, the thematic objective n. 9 of the Partnership Agreement, aims at strategies and policies of inclusion mostly focused on the category of people in situations of disability, with an interesting innovation consisting in creating links with other thematic objectives for the achievement of the expected results for the specific objective, and particularly with the thematic objective 3 "Competitiveness of productive systems" , which has been taken into consideration to assess and activate an intervention addressed to both the demand (competitiveness) and the supply (active policies and training), thus responding to the strategic decision to intervene in an integrated way in the various areas.

The strategies of the Partnership Agreement are clearly reverberated within the operational programs launched by the Italian regions and, in particular, by Puglia which, as stated, defines in its Regional Operational Programme for 2014-2020 a strategy to strongly increase the competitiveness of its territory, by systematizing the experimentations previously carried out with reference to, particularly, the innovations aimed at improving the quality of life.

A proof of that are the statements that "systematize" the actions already implemented in the programming period 2007-2013 and that include them in the Investment Priority 1b of the ROP - Regional Operational Programme of Puglia and particularly with reference to the action 1.4 – Actions to promote new markets for innovation, in which Living Labs and the PCP are mentioned and are supported through increased financial resources since they are considered as tools able to support the creation of innovative solutions to specific problems of Social concern.

There are also many references to the improvement of the quality of life of underprivileged people under the investment priority n. 2 of the ROP, addressed to broadband and launching of high-speed networks, with particular reference to the priorities 2c that focuses on the application of ICT to e-government, e-learning, e-inclusion, e-culture and e-health.

Another interesting reference is the one linked to the spread and strengthening of economic activities with social content, defined under the investment priority n. 3 and characterized by the provision of specific tools to help social enterprises and third sector organizations with the aim of promoting the start-up and development of new and/or existing companies, as well as the use of specialized services to qualify their offer. This shall strengthen and increase, from the one hand, the number of companies that, with their range of services addressed to welfare and allowing work and life balance, help to reduce the burden of family care, which often weights on women, thus improving welfare and the quality of life; on the other, increase the number of companies owned by women.

Finally, under the investment priority n. 9, which is the most focused one on social inclusion of vulnerable people in general, specific actions are provided aimed to reduce the digital divide of disadvantaged groups as well as specific actions to support the employment of disabled persons.

This highly innovative environment at the regional level, then, is perfectly in line with the main innovation that is characterizing, in Italy, the programming period 2014-2020, represented by the National Operational Program for Inclusion. For the first time, in fact, Structural Funds intervene to support social inclusion policies, in close synergy with the objective of poverty reduction set by Europe 2020.

Thus the program defines its objectives with reference to the strategy to fight against poverty defined by the Italian Government in the National Reform Plans. In particular, it aims at contributing to the process focused on the definition of minimum levels for certain social services, in order to ensure their equal supply in all the Italian regions, thus overcoming the current territorial disparities. Through Axis 1 and Axis 2, more than 80 % of the resources of the program, amounting to approximately 1.2 billion Euro, is therefore dedicated to support the dissemination throughout the country of the experimentation of the measure called Support for active inclusion (SIA), an active measure to contrast absolute poverty implemented in 2014 in the 12 most densely populated cities in Italy.

The two Axis also provide for measures to intensify the network of services for the homeless in urban areas. The program also supports the definition and experimentation, through system actions and pilot projects, of models for the integration of people at risk of social exclusion, and the promotion of economic activities in the social field (Axis 3) and finally, actions to strengthen the administrative capacity of persons who, at various levels of governance are involved in implementing the program (Axis 4) .

Finally, the National Operational Plan (PON) Companies and Competitiveness 2014-2020, with a total budget of over 2.4 billion Euros, intends to increase investments in key areas in the less developed regions (Basilicata, Calabria, Campania, Puglia, Sicily), and in those in transition (Abruzzo, Molise, Sardinia) , restarting a dynamics of South/Center-North convergence that can sustain a lasting development process of the entire national system through actions to safeguard the existing production structure and the requalification of productive specialization patterns.

The investments pack aims to promote economic growth and the strengthening of the presence of Italian companies in the global context of production, in particular small and medium-sized enterprises, articulating the actions around four thematic objectives:

- o T.O. 1 – strengthening research, technological development and innovation
- o T.O. 2 – improving the access to ICT and their adoption and quality
- o T.O. 3 – promoting competitiveness of SMEs
- o T.O. 4 – supporting transition to a low-carbon economy in all sectors.

## SPAIN

Real Decreto Legislativo 1/2013, de 29 de noviembre, por el que se aprueba el Texto Refundido de la Ley General de derechos de las personas con discapacidad y de su inclusión social.

This law stipulates a quota of 2% of workers with disabilities that the public or private enterprises with more than 50 workers must apply. If this condition is not fulfilled, the enterprise will have to make donations to nonprofit organizations and/or subcontract some activities to employment special agencies.

Apart from ordinary employment, there is a protected employment system. Help for wealth care and social insertion of people with disabilities are also introduced, as well as for protecting the rights of this people (education, habilitation, accesibility, mobility, housing, participation in public and political life, etc.)

### SPANISH LEGISLATION CONCERNING STUDENTS WITH SPECIAL NEEDS

BOE Núm. 52 Sábado 1 de marzo de 2014 Sec. I. Pág. 19358 LOMCE (from Article 14 on)

This law stipulates that local and autonomic authorities must guarantee that the special needs of all the students will be taken into consideration.

## NETHERLANDS

People with special needs are protected against discrimination through the Equal Treatment Law (or Human Rights Act)

<http://mensenrechten.nl/sites/default/files/2013-05-08.Legislation%20Equal%20Treatment.pdf>). The Netherlands Institute for Human Rights explains, monitors and protects human rights, promotes respect for human rights (including equal treatment) in practice, policy and legislation, and increases the awareness of human rights in the Netherlands. (<https://mensenrechten.nl/mission-and-ambition>)

## Referral system for special needs students

In the Netherlands, there used to be specific schools for special needs students. Schools received a budget per student based on the type of the special needs of a child. To assess this, a national referral system was developed. Special needs students are categorized as cluster 1 through 4.

Cluster 1 is for students who are blind or have limited sight.

Cluster 2 is for students who are deaf, limited in hearing or have severe problems in speaking or using language.

Cluster 3 is for students with a mental or physical disability or with a chronic disease.

Cluster 4 is for students with behavioral disorders, development disorders or psychiatric disorders.

Until 2013, special needs schools cooperated (with exception for cluster 1 students) together in 34 regional expertise centers. Each center had its own committee to decide on referrals and whether students could go to a special needs school or should be integrated in a regular school with a so-called "little backpack" (extra budget for additional support).

This referral system was rather complicated, referral often took a long time and the cost were high because many students were referred to special needs schools.

## "Suitable education" policy

Since 1 August 2014 regular schools are required to take in special needs students. This new policy is labeled "suitable education" ("passend onderwijs" in Dutch)

The funding of special needs schools is gradually lowered. The special needs schools can only cater for the students with cluster 1 and 2 students, while cluster 3 and 4 students need to be integrated in regular schools. Special needs schools redeveloping themselves partly into expertise centers that advise regular schools. They do this in 152 regional co-operation platforms; 77 with primary schools and 75 in secondary education. The platforms also cooperate with regional youth care centers and municipalities. By jointly making proper arrangements, the platform potentially can work from the idea of "one child, one plan" and avoid fragmentation of services. Also, it should enable better coordination of services based on 3 new decentralization laws: the youth law, the social support law and the participation law. The youth law centralizes all support and care for youth into one budget under the auspices of the municipalities. The social support law decentralizes all costs of extramural and personal care to municipalities. The participation law combines a series of earlier laws that stimulate and support people to take part in the labor market, and decentralizes the budget to municipalities. Learning support programs and schools for "practical" training (the lowest form of vocational training) will also be incorporated in the responsibilities of the regional platforms for secondary education.

The regional platforms develop support plans which determine which type of support the schools in the partnership can get, and which students are eligible for special needs schools. Parents report their child to the school of their preference. The school then has a duty of acceptance and care. This means parents do not have to go searching for a school that will accept their child.

The platform makes an overview of all the needs profiles of special needs students, and assesses whether it can support all the needs through their extensive network. The objective is that all students get an appropriate place. Based on the school profiles the partnership, the platforms sets the basic support. This is the support that all schools can offer within the alliance. An example is that some schools may specialize in support for more and less gifted pupils or to deal with behavioral problems.

The government hopes "suitable education" leads to less bureaucracy than before. The referrals are dealt with directly; long procedures, waiting lists and separate circuits for light and heavy support disappear because the platform gets both the resources for light and

heavy support. The platforms are expected to also offer support for teachers and school who now have to deal with a larger diversity of students and with disabilities and behavioral disorders they have not needed to deal with before. The government also hopes that truants who stayed home because of their disabilities or disorders, or because of waiting lists, will find a place in school with the new policy.

#### Implementation of the "suitable policy"

The implementation of the "suitable policy" strategy started in 2014 and will take until 2020. From 2014 on the regular schools are required to take in special needs students. Special needs schools still get their regular budget. The regional platforms are starting; they get part of the budget that used to be available for "little backpacks" for students that already went to regular schools. In the years ahead, the budget of special needs schools is gradually shifted from the schools to the platforms.

On the school level the implementation is as follows. Parents report their child to the school of their preference. The school must then make the most appropriate offer possible, in its own school, in another school or in a special needs school. After registration, the school has six weeks to decide on the admission of the student. This period may be extended for another four weeks. The school first examines whether they pupil can offer additional educational support, possibly with additional support from the (secondary) special education or the platform. Sometimes the school needs more information to assess this properly. Schools can therefore request additional information from the parents. If the school cannot provide an appropriate educational place, they must arrange a suitable place in another mainstream or special school. This is done in consultation with the parents. The "duty of care" implies that a school may not remove a student until another school admits that student.

#### The "development perspective"

The school has a targeted consultation with the parents about the "development perspective" (plan) of the student. The aim is to agree on developmental goals. Schools for secondary education also involve the pupil here. If the student is of age, it is legally mandatory to involve the student in the development plan. In the development perspective, the goals of

education are captured, their underlying rationale and the support of the pupil. The school evaluates the development perspective at least once per school year. The "development perspective" replaces the former "treatment plan" or Individualized Education Program (IEP).

A compulsory part of the development perspective is the expected outflow destination and the underlying rationale. The substantiation minimally contains the inhibiting and stimulating factors that influence the educational process. In regular primary and secondary schools, special needs schools and vocational training, it is necessary to list the deviations of the regular curriculum and describe which guidance and support are given in the context of the developmental perspective.

The Education Inspectorate monitors the quality of education, and therefore also the development perspective.

The school is required to monitor and keep record of the progress of the student. If the student develops better than expected, the school adapts the goals. The school evaluates the developmental annually with the parents and informs them when necessary. In special needs schools, the school always explores if and when the student can flow back into a regular school.

Special needs primary schools include the "development perspective" report of the student in the general educational report when the student leaves school. This way it becomes part of the school advice to further education. In secondary special needs schools, the "development perspective" takes on a different meaning because secondary school students choose a study profile. For pupils with a labor market profile in secondary special needs schools, the development perspective focuses on the opportunities to find a job and maintain it. Students with a profile for further education can do a basic education in the lower tiers of secondary education and then proceed to regular school types for vocational education, higher administrative education or pre-academic education. The development perspective of these students focuses on the possibilities of further education or transition to the labor market.

## RECOMMENDATIONS

In the Netherlands, "suitable" education ("passend onderwijs") offers space to support schools on all diversity, not only on special needs. It would make schools more safe and comfortable if the regional Cooperation platforms Passend Onderwijs take this into account.

It would be worthwhile to further experiment with efficient and high impact combinations of citizenship education, human rights education, peace education, sexual education, social skills education, conflict resolution and anti-bullying programs. Such programs resemble each other very much but are now offered separately, which makes it difficult for schools to choose and many of these programs are not fully inclusive despite their admirable goals.

In the whole of Europe, a holistic view on safer and more inclusive schools would be more effective and more efficient than countless separate policies and activities on special needs (handicapped students), ability differences, class differences, gender differences, differences in sexual orientation, cultural differences and differences in being native or immigrant. A holistic strategy which is fully inclusive of all these differences would be preferable and is possible, as this project has shown.

We recommend more and new pilot project with this inclusive, transversal and intersectional perspective.

Apart from the inclusion of students with special needs in schools and in the educational pathways/learning processes, the project has been focused also on the social-professional inclusion and at the full exertion of citizenship rights by people with special needs in general (adults included).

Both ELPENDU' and GUREAK, indeed, works in this sector and very often their initiatives aimed at the inclusion of underprivileged people is achieved by means of technological solutions.

a. PREVENTION AND FIGHT AGAINST DISCRIMINATIONS BASED ON SEXUAL ORIENTATIONS

In 2015, three schools in Italy, Basque Country and the Netherlands carried out a needs assessment research among their students and teachers. The objective was to explore the attitude and behaviour towards sexual diversity and to generate directions and suggestions for exchange meeting of the joint "LeGoP" project and for a teacher e-course on combating homophobia.

The needs assessment showed that the three schools are rather progressive and an openness to deal with diversity. Still, the research show a need to act against homophobia. Even when individual students say they are not (so) homophobic, a large majority of them thinks that LGBT students cannot come out in their schools or is insecure about that.

Despite the willingness of teachers to engage against homophobia, the research results also showed a range of differences in assessment of the situation between students and teachers, and also between teachers in different countries and sometimes between teacher within school teams. These differences point to a need for teachers to discuss the focus of their efforts in this area and also to really listen to their students. Part of this discussion and "listening" can already start during the exchange meetings in this project by giving students a voice and teachers engaging in discussions about their priorities and team cooperation. The full report can be downloaded at <http://www.gale.info/doc/legoproject/GALE-2015-A-need-for-enhanced-focus-LeGoP-survey-report.pdf>.

## LEGAL FRAMEWORK

According to the European legislation and institutions, equal treatment shall be guaranteed for all people regardless of their gender identity and sexual orientation.

More specifically, the TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION, at the Article 10 states: "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", and the Article 19 (ex Article 13 TEC) "1. [...], the Council [...] may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation".

The EU Charter of Fundamental Rights at Article 21 states that “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”.

Furthermore, the European Court of Human Rights considers sexual orientation a prohibited ground for discrimination and have contributed to the advancement of the protection of the rights of transgender persons. In accordance with the case law of the Court, any difference in treatment, in order not to be discriminatory, must have an objective and reasonable justification, that is, pursue a legitimate aim and employ means which are reasonably proportionate to the aim pursued.

Commitment of the EU towards the implementation of equal rights for LGBT people can be inferred from the content of the various Recommendations which came in succession on the matter in the past decades.

The first relevant Recommendation, traces back to the year 1981 (Recommendation 924 (1981) Discrimination against homosexuals). In this document the Parliamentary Assembly of the Council of Europe recommended to the Committee of Ministers to “urge those member states where homosexual acts between consenting adults are liable to criminal prosecution, to abolish those laws and practices and to apply the same minimum age of consent for homosexual and heterosexual acts”. The Recommendation called on the governments of the member states : “a. to order the destruction of existing special records on homosexuals and to abolish the practice of keeping records on homosexuals by the police or any other authority ; b. to assure equality of treatment, no more no less, for homosexuals with regard to employment, pay and job security, particularly in the public sector ; c. to ask for the cessation of all compulsory medical action or research designed to alter the sexual orientation of adults ; d. to ensure that custody, visiting rights and accommodation of children by their parents should not be restricted on the sole grounds of the homosexual tendencies of one of them ; e. to ask prison and other public authorities to be vigilant against the risk of rape, violence and sexual offences in prisons.”

Successively, the Congress of Local and Regional Authorities of the Council of Europe, in the Recommendation 211 (2007) on freedom of assembly and expression for lesbians,

gays, bisexuals and transgendered persons, considering that “recent homophobic incidents in a number of member states have highlighted not only the systematic violation of the basic rights of the lesbian, gay, bisexual and transgendered (LGBT) community but have shown that in many cases the very authorities who have the positive obligation to protect their citizens against discrimination are actually endorsing and in some cases actively supporting or perpetrating this injustice”, recommends that the Committee of Ministers of the Council of Europe ask member states to ensure, among others, that: “they take a public stand against discrimination on the grounds of belonging to a sexual minority as well as appropriate steps to combat hate speech; [...]they investigate with all the rigour at their disposal all cases of violence, or hate speech during LGBT or LGBT-related events to determine whether discrimination or homophobia may have played a role in the commission of a crime, and ensure prosecution of those responsible; [...] while the provision of financial or other support by local authorities to the organisers of LGBT events must be provided equally to all similar groups, there should no statutory bar to local authorities assisting or publicizing LGBT events”.

The Committee of Ministers, in its message to steering committees and other committees involved in intergovernmental co-operation at the Council of Europe on equal rights and dignity of all human beings, including lesbian, gay, bisexual and transgender persons, adopted on 2 July 2008, specifies to be “strongly attached to the principle of equal rights and dignity of all human beings, including lesbian, gay, bisexual and transgender persons. The Council of Europe’s message of tolerance and non-discrimination applies to all European societies, and discrimination on grounds of sexual orientation or gender identity is not compatible with this message. It notes that instances of discrimination on grounds of sexual orientation or gender identity as well as homophobia and intolerance towards transgender persons are regrettably still widespread in Europe. Therefore, it invites all steering committees and other committees involved in intergovernmental co-operation at the Council of Europe to give, within their respective terms of reference, due attention in their current and future activities to the need for member states to avoid and remedy any discrimination on grounds of sexual orientation or gender identity and to make proposals for specific intergovernmental and other activities designed to strengthen, in law and in practice, the equal rights and dignity of lesbian, gay, bisexual and transgender persons and to combat discriminatory attitudes against them in society.”

As specified in the document “Combating discrimination on grounds of sexual orientation or gender identity - Council of Europe standards” “The Council of Europe’s standards and mechanisms seek to promote and ensure respect for the human rights of every individual. These include equal rights and dignity of all human beings, including lesbian, gay, bisexual and transgender persons.[...] Discrimination on grounds of sexual orientation or gender identity is not compatible with Council of Europe standards.”

Of particular significance is the Council of Europe's Recommendation of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity (Recommendation CM/Rec(2010)5) which specifies that discrimination and social exclusion on account of sexual orientation or gender identity may best be overcome by measures targeted both at those who experience such discrimination or exclusion, and the population at large. In this document the Council of Europe recommends that member states:

1. examine existing legislative and other measures, keep them under review, and collect and analyse relevant data, in order to monitor and redress any direct or indirect discrimination on grounds of sexual orientation or gender identity;
2. ensure that legislative and other measures are adopted and effectively implemented to combat discrimination on grounds of sexual orientation or gender identity, to ensure respect for the human rights of lesbian, gay, bisexual and transgender persons and to promote tolerance towards them;
3. ensure that victims of discrimination are aware of and have access to effective legal remedies before a national authority, and that measures to combat discrimination include, where appropriate, sanctions for infringements and the provision of adequate reparation for victims of discrimination;
4. be guided in their legislation, policies and practices by the principles and measures contained in the appendix to this recommendation;

Specific recommendations to Member States are then detailed in the Appendix concerning different policy areas that are relevant for LGBTI people that are mentioned below.

Actual implementation of equal opportunities for LGBTI people varies among EU Member States.

We provide hereunder a table which collects a list of relevant indicators referred to the countries involved in the project, based on analysis and reports carried out in the last few years and that have been used as reference documents to write this section of the Toolkit.

Furthermore, we summarize hereunder the actions that the Commission aims at undertaking in the following years to support the implementation of the recommendations detailed in the Appendix of Recommendation CM/Rec(2010)5, as declared in the document “List of actions by the Commission to advance LGBTI equality”, together with some references to the current situation in the countries involved in the project referred to such policy areas, based on the document “Protection against discrimination on grounds of sexual orientation, gender identity and sex characteristics in the EU - Comparative legal analysis”, published by the FRA, the EU Agency for Fundamental Rights in 2015:

#### I. RIGHT TO LIFE, SECURITY AND PROTECTION FROM VIOLENCE: A. “HATE CRIMES” AND B. “HATE SPEECH”

The DIRECTIVE 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, so called Victim's Rights Directive

ensures that persons who have fallen victim of crime are recognised, treated with respect and receive proper protection, support and access to justice. Victims must be guaranteed a minimum level of rights without discrimination across the EU, irrespective of their nationality or country of residence. These rights should apply whether a minor or serious crime is involved. Victims, and their family members, should also have access to support services - whether or not they have reported the crime - and be protected from further harm. Crime is a wrong against society as well as a violation of the individual rights of victims. As such, victims of crime should be recognised and treated in a respectful, sensitive and professional manner without discrimination of any kind based on any ground such as 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, gender, gender expression, gender identity, sexual orientation, residence status or health. The Directive states “Violence that is directed against a person because of that person's gender, gender identity or gender expression or that affects persons of a particular gender disproportionately, is understood as gender-based violence [...] Some victims are particularly at risk of secondary and repeat victimisation, of intimidation and of retaliation by the offender during criminal proceedings. It is possible that such a risk derives from the personal characteristics of the victim or the type, nature or circumstances of the crime. Only through individual assessments, carried out at the earliest opportunity, can such a risk be effectively identified. Such assessments should be carried out for all victims to determine whether they are at risk of secondary and repeat victimisation, of intimidation and of retaliation and what special protection measures they require. Individual assessments should take into account the personal characteristics of the victim such as his or her age, gender and gender identity or expression, ethnicity, race, religion, sexual orientation, [...] relationship to or dependence on the offender and previous experience of crime. They should also take into account the type or nature and the circumstances of the crime such as whether it is a hate crime, a bias crime or a crime committed with a discriminatory motive, sexual violence, violence in a close relationship, whether the offender was in a position of control, whether the victim's residence is in a high crime or gang dominated area, or whether the victim's country of origin is not the Member State where the crime was committed.

To implement the actions suggested in the Recommendation, the EC has established the EU High level group on racism, xenophobia and other forms of intolerance that shall regularly bring together Member States, civil society and community representatives to step up cooperation and improve coordination, exchange best practices and identify gaps with a view to ensuring the proper enforcement of EU and national criminal law legislation on hate crime and hate speech. It is also provided that action shall be stepped up at EU level to support Member States in their efforts on combating online hate speech, including, where covered by national legislation, homophobic and transphobic hate speech, by initiating a dialogue at EU level with IT companies and supporting the development of counternarratives online.

Furthermore, the Commission has specifically allocated EU funding under the Rights, Equality and Citizenship Programme (2014-2020) to help Member States combating discrimination and homophobic and transphobic hate speech and crime, including through the exchange of good practices, training and capacity building. Targeted funding for national authorities will be made available as from 2016 in the area of hate crime and hate speech for Member States to carry out specific projects aimed at better implementing relevant legislation, including through training of judges, prosecutors and police.

The Fundamental Rights Agency will support Member States in improving recording and identifying a methodology for data collection of hate crimes, including on grounds of sexual orientation and gender identity. Indeed, underreporting and a lack of statistics on hate speech and hate crimes on the grounds of sexual orientation and gender identity remain problems across the EU Member States. Statistical data on the number of court cases involving discrimination on the ground of sexual orientation, and on the content of court rulings on such cases, is also lacking, and there is insufficient information on both the number of complaints submitted to equality bodies and on the content of their decisions.

One in five (22%) of the most serious incidents of violence experienced by respondents to the 2012 survey in the preceding 12 months because they were LGBT were brought to the attention of the police. Only 6% of equivalent incidents of harassment were brought to the police's attention. One reason for the lack of data on these types of incidents is that victims of discrimination or violence based on sexual orientation, gender identity or sex characteristics are unwilling to report cases because they doubt anything will change, they fear that one's sexual orientation could be revealed to family or friends and finally, they don't know how or where to report an incident.

Considering the above, EU Member State efforts should include building trust between LGBTI people and law enforcement, for example, by providing training and developing guidelines/handbooks for the police, prosecutors and judges on how to assist/support individuals who become victims of hate crime because of perceptions of their sexual orientation and/or gender identity.

## RECOMMENDATIONS

based on the Conclusion document issued at the end of the conference on ‘Tackling sexual orientation and gender identity discrimination: Next steps in EU and Member State policy making’, held in October 2014 in Brussels

Member States should consider establishing national action plans addressing prejudice, discrimination and hate crime against LGBTI persons. The successful implementation of action plans depends largely on the cooperation and coordination of different governmental and non-governmental actors as well as organisations of professionals and practitioners, such as police officers, teachers and trade unions.

One particular finding from the EU LGBT survey which was launched online by FRA - European Union Agency for Fundamental Rights, on 2 April 2012 and ran until 15 July 2012, suggests that ‘policy works’: in countries where LGBT action plans or policies exist, LGBT persons report generally a better fundamental rights situation.

Measures to prevent and prosecute homophobic and transphobic crime and tackle under-reporting and under-recording of these hate crimes are essential. Effective strategies should be put in place in order to raise awareness among law enforcement about the issues LGBTI persons face and equip police officers with practical knowledge on how to recognise and deal with related hate crime incidents. This could be done through tailored training, LGBTI focal points within the police and practical guidelines to police officers.

Effective and independent complaint mechanisms on police conduct or hate incidents perpetrated by law enforcement officials would help to tackle institutional forms of discrimination within the law enforcement agencies, and contribute to building trust with LGBTI community.

## SITUATION IN EU MEMBER STATES PARTICIPATING IN THE PROJECT

The Victims' Rights Directive was supposed to be transposed in the EU Member States by 16 November 2015. As of mid-2015, the majority of EU Member States have made hate speech on the ground of sexual orientation a criminal offence (seven more than in 2010). Eight Member States (including Spain) have also added the ground of gender identity. As

of mid-2015, 15 EU Member States treat homophobic intent as an aggravating circumstance of crime. Transphobic intent is explicitly considered an aggravating circumstance in eight EU Member States.

National legislations in the three countries involved in the project treat discrimination on the ground of gender identity as a form of sex discrimination.

Netherlands and Spain as of mid-2015, make it a criminal offence to incite hatred, violence or discrimination on the ground of sexual orientation (along with other 18 Member States).

Spain considers homophobic intent an aggravating circumstance or an element to be taken into account when determining penalties, either for all common crimes or for a closed set of criminal offences. Spain's parliament adopted legislation amending the penal code

to introduce "sexual identity" among the protected grounds, alongside sexual orientation. The law criminalises several acts, including the promotion, encouragement, exaltation or justification of violence, hostility, hatred or discrimination by any means of public expression, including in the media. Furthermore, it punishes offending the dignity of people through humiliation, contempt or disrespect against members of a protected group. Finally, the bill also proposes outlawing associations that promote or incite to hatred against persons, groups or associations because of their sexual identity or orientation, among other grounds.

In Spain, there are no explicit references to the victim as legal actor. The criminal justice system does not confer a differentiated legal status to the victim who is treated according to their role as witnesses or private prosecution in the proceedings, according to the Spanish Code of Criminal Procedure. In the last years several normative changes have been enabled in order to create a specific legal status for victims, especially those related to gender based violence and terrorism, such as the Organic Law 19/1994, of 23 December, on the Protection of Witnesses and Experts in Criminal Cases; Law 35/1995, of 11 December, on Aid and Assistance to Victims of Violent Crimes and Crimes against Sexual Freedom; Law 32/1999, of October 8, in solidarity with the victims of terrorism; Organic Law 1/2004 of 28 December, on Comprehensive Protection Measures against Gender-based Violence and Law 29/2011, of September 22, on Integrated Recognition and Protection of Victims of Ter-

rorism. It is also important to highlight that a new Penal Procedure Code is currently being drafted that will include most of the victim's rights included in the Victims' Directive.

As far as data collection is concerned, the Ministry of the Interior published a special report in April 2014 on hate crimes committed in Spain in 2013

, referring to 453 hate crimes based on sexual orientation or sexual identity. However, it is not possible to further disaggregate these data to obtain a clearer picture of the characteristics of these crimes. Furthermore, underreporting is still very common, as reported by the national survey

on discrimination based on sexual orientation and/or gender identity carried out by the State Federation of Lesbians, Gays, Transsexuals and Bisexuals (Federación Estatal de Lesbianas, Gays, Transexuales y Bisexuales) in 2013.

Concerning training and awareness raising among police services, the Ministry of the Interior has published a Handbook for diversity management by the police (Guía para la gestión policial de la diversidad).

In the Netherlands, the courts apply higher penalties to crimes committed with a homophobic intent even if such motivations are not specifically addressed in legislation. The Public Prosecution Service's Discrimination Directive recommends a 50 %–100 % higher sentence for common crimes with discriminatory aspects.

An LGBT police network has been implemented, which is called Pink in Blue (Roze in Blauw; the Dutch police uniform is blue).

Every year on 4 May (National Remembrance Day for War Victims) special attention is paid to gay people, and in Amsterdam and The Hague, special gay and lesbian remembrance monuments have been established (homomonument)

In Utrecht there is a commemoration stone for gay people ("sodomites") at the foot of the Cathedral; it commemorates the 17th century sodomite persecutions.

Concerning data on crimes against LGBT people, there are different data collection mechanisms that record a variety of bias motivations, characteristics of victims and perpetrators, and further information on incidents in the Netherlands. The police tries to implement a specific code for homophobic hate crimes in the police report system. This is hampered because until a year ago, the police forces were decentralized and there were several police reporting computer programs, some of which were not changeable in this way. In such non-changeable systems, police forces agreed to put the code in the open "comments section" in order they still be able to make an analysis on homophobic crimes by using a key word search on all files. The Dutch police also has made it possible to report discrimination even in cases where the perpetrators are not, or not likely to be charged or convicted

(<https://www.politie.nl/themas/discriminatie.html#alinea-title-discriminatie-op-internet-waar-kan-ik-terecht>).

Next to the police, there are two other registration systems. The first is a local network of Anti-Discrimination Offices. This chain of offices registers discrimination complaints on all grounds and assist victims in filing formal complaints. The Anti-Discrimination Offices have regular meetings with the local police commissioner and the mayor in a so-called "triangle" meeting (the triangle of mayor, police and the Anti-Discrimination Office). The Anti-Discrimination Offices also offer training for high schools and professionals. The third is the national hotline on internet discrimination, which works like the Anti-Discrimination Offices but focuses on virtual discrimination (<http://www.mindnederland.nl/>). Finally, most municipalities maintain their own local "safety monitor" which is a biannual survey on local safety as reported by the population.

Most police forces offer training to their local teams and attention for homophobia and other discriminations is to some extent integrated in the police academies. There is a national police expertise centre on discrimination, which advises local police forces and academies and also supports local "Pink in Blue" police groups.

In Italy criminal law provisions on hate speech do not include homophobic statements as a punishable offence and committing criminal offences with homophobic intent is not considered an aggravating circumstance. However, two cases involving homophobic state-

ments were decided on the basis of civil law (as a tort) and administrative law, respectively. In the first case, the defendant was convicted of defaming the victim. The case was related to offensive statements made against a politician during a TV programme. The Tribunal of Milan stated that the words used against this person were meant to perpetuate an image of LGBTI persons as human beings of poor morality and to offend their dignity. For this reason, the verbal aggressor was sentenced to pay €50,000. In the second case, the principal of a private university expelled a postgraduate student for one year following two homophobic acts. According to the administrative court, writing offensive statements against LGBTI persons and ripping down posters of an LGBTI support association on the Day against Homophobia constitute actions meant to offend the dignity of LGBTI persons. Therefore, taking into account the seriousness of these acts, the administrative court found proportionate the exclusion from all university activities for one year, considering that the university's code of conduct allowed expulsions of up to three years.

Concerning the transposition of the Victims' Rights Directive, the implementing law in Italy is the Legislative Decree n. 212 of 15 December 2015, entered into force on 20 January 2016, but it does not make any specific reference to crimes based on sexual discrimination. Also the laws in force on discriminations and hate crimes

, makes reference to discriminations based on race, ethnicity, nationality or religious belief only and not to discriminations based on sexual orientation and gender identity. In the last few years debates at political and social level have occurred to widen the scope of these laws including also homophobic and transphobic crimes, but no amendment has been introduced yet. The Senate Bill No 1052, 2013 Provisions to fight against homophobia and transphobia, based on the draft law n. 245 presented at the lower house of the Italian Parliament on 15.03.2013 and approved by the latter on 19.09.2013, would indeed modify the existing criminal law provisions on incitement to hatred, which are currently explicitly restricted to the protection of groups other than LGBTI people. Furthermore, the Bill, if approved, would ensure surveying activities to be performed at least every four years to monitor homophobic and transphobic discriminations and violence, which would provide important data useful to better design and implement policies to prevent these phenomena.

As far as training of police services is concerned, the National Office against Racial Discrimination (UNAR) – Equal Opportunities Department (Dipartimento Pari Opportunità) has introduced police training modules on homophobic and transphobic hate crimes, in the framework of the implementing actions provided for by the National strategy to prevent and combat discrimination on grounds of sexual orientation and gender identity (2013–2015).

The police and the carabinieri have also promoted the Observatory for Security against Acts of Discrimination (Osservatorio per la sicurezza contro gli atti discriminatori, OSCAD). Police representatives from Italy attended the international seminar on ‘Police training relating to LGBT issues’, which took place in Budva, Montenegro in December 2012, which was organised by the Council of Europe. This represents an example of an exchange among states of promising practices pertaining to training and educating police forces. The conference was attended also by relevant NGOs, to exchange views and good practices. One of the aims was to develop trust between the police and the LGBT community.

## II. FREEDOM OF ASSOCIATION AND FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY

The Committee of Ministers, in its reply to Recommendation 211 (2007) of the Congress of Local and Regional Authorities of the Council of Europe on freedom of assembly and expression for lesbians, gays, bisexuals and transgendered persons adopted by the Committee of Ministers on 16 January 2008 at the 1015th meeting of the Ministers’ Deputies, stressed that “The right to freedom of expression, in particular to share and express one’s identity, is fundamental to promoting diversity and tolerance in society. The Committee of Ministers refers to its Recommendation No. R (97) 21 on the media and the promotion of a culture of tolerance, which underlines the importance of professional media practice and responsibility in protecting various groups and individuals from negative stereotyping and in reflecting their positive contributions to society peaceful demonstrations, be they in favour of the rights of LGBT persons or others, cannot be banned simply because of the existence of attitudes hostile to the demonstrators or to the causes they advocate”

Even though pride marches and public events in support of LGBTI rights are organised in all EU Member States also outside of capital cities, still, attempts to limit LGBTI peoples' exercise of these freedoms – aimed at banning so-called 'homosexual propaganda' – are found in EU Member States. In parallel, demonstrations involving explicitly homophobic and/or transphobic hate speech continue to take place in the EU.

In ITALY, for example, an informal group called 'Sentinelle in piedi' has been recently established to "protect the natural family based on the union between man and woman", and oppose to the approval of the law against homophobia currently under discussion at the Italian Parliament. The members of this group have already organized demonstrations in various cities to express their disagreement with the extension to LGBTI couples of the rights recognized to "traditional" families (e.g. the right to adopt the partner's children born in a previous relationship).

## NETHERLANDS

The freedom of assembly has never been problematic in the Netherlands. The first LGBT pride demonstration was held in Amsterdam in 1996, at the same time as the famous New York rebellion after the police raids of the Stonewall in. Such raids never happened in the Netherlands; already in 1946 the national gay and lesbian organization COC made a deal with the Amsterdam police commissioner that there would be no raids. In return, the COC promised not to allow minors (-21 at the time) in, that there would be no "close-dancing" and that undercover cops were allowed to check this).

The COC at first did not like the Gay Prides because they maintained that gays and lesbians were "normal" and not provocative. but after the COC changed it's mind in 1977, the Gay Prides became more popular and bigger. In 1979 Gay Pride was renamed "Roze Zaterdag" (Pink Saturday). Originally all Pink Saturday Parades were in Amsterdam, but from 1980 on, the parade changed city every year.

During the international Gay Games in August 1998, a Canal Parade of 80 floats was held. This was such a success that this event has been repeated ever since and has become

one of the biggest public events in the Netherlands. Although it is very popular among both straight and LGBT people, the Canal Parade still evokes a lot of criticism for its perceived provocation of heterosexual norms. In reality, this provocation is relatively minor. The 80 floats represent a wide cross section of the LGBT community and its supporters, and the transvestitism and semi-nudity shown on some of the floats are non distinguishable from certain TV shows, summer beaches and carnival.

Source: [http://www.reguliers.net/geschgaypride.php`](http://www.reguliers.net/geschgaypride.php),  
[https://nl.wikipedia.org/wiki/Amsterdam Gay Pride](https://nl.wikipedia.org/wiki/Amsterdam_Gay_Pride)

## SPAIN

In Spain, apart from catholic associations, such as Fórum Libertas, or conservative parties, such as PP (Partido Popular), there hasn't been much opposition to homosexual marriage since it was approved in 2005. It should be pointed out that also inside the catholic church there are groups working in favor of LGBT persons' rights, such as "Cristianos Gays", or even inside PP conservative party some voices claim for the homosexual marriage. The spanish conservative president Mariano Rajoy didn't abolish the marriage law promulgated by socialists, as set in his electoral programme. Moreover, he was invited in 2015 to the homosexual marriage of Javier Maroto, a senior manager of his party. The extreme right has only obtained one seat in the parliament in the last forty years. Nowadays, there are six parties considered as extreme right formations and running for elections in Spain. They have got no seats in the parliament and all of them together barely arrived at 2% of the votes.

## RECOMMENDATIONS

According to FRA opinion, Member States should take measures to ensure that LGBTI people can effectively exercise their rights to freedom of assembly and of expression, inclu-

ding outside of the Member States' capitals. They should guarantee the safety of LGBTI people during "pride" marches or similar events across their territory.

### III. RIGHT TO RESPECT FOR PRIVATE AND FAMILY LIFE

The Recommendation CM/Rec(2010)5 states that "Member states should ensure that any discriminatory legislation criminalising same-sex sexual acts between consenting adults, including any differences with respect to the age of consent for same-sex sexual acts and heterosexual acts, are repealed; they should also take appropriate measures to ensure that criminal law provisions which, because of their wording, may lead to a discriminatory application are either repealed, amended or applied in a manner which is compatible with the principle of non-discrimination."

The Commission has also proposed EU legislation to facilitate the daily life of citizens living in a Member State other than that of their origin. These measures would facilitate also the lives of LGBTI people and their families.

The Commission will continue to ensure that the specific issues related to sexual orientation and gender identity are properly taken into consideration in the transposition and implementation of Directive 2004/38 (Free Movement Directive) on the right of EU citizens to move and reside freely within EU countries. The Directive does not distinguish between different and same-sex spouses, meaning all EU Member States are obliged to treat them equally for the purposes of entry and residence. Whether LGBTI people are treated as 'family members' in these contexts is affected by the directives that define who can be considered a 'family member' for their purposes. All of the directives include registered partners and spouses in their definitions of 'family member' – this includes same-sex couples in Member States that recognise such couples in their national legislation. Not all EU Member States, however, do so, which has negative consequences for their enjoyment of EU citizens' freedom of movement.

As of October 2015, 11 EU Member States permit same-sex couples to marry (six more than in 2010). 12 EU Member States do not distinguish between same-sex and different-sex spouses of foreign EU citizens for purposes of entry and residence rights. Seven other Member States that do not allow same-sex marriage treat same-sex spouses married abroad as registered partners for the above purposes. Nineteen EU Member States grant entry and residence rights to same-sex registered partners. In others, the situation is still unclear due to either a lack of legislation or to contradictory provisions.

All EU Member States are obliged to facilitate entry and residence of de facto partners of EU citizens, provided a 'durable relationship' between them is 'duly attested'. Since this provision is vague, its implementation at national level varies.

Eleven EU Member States treat same-sex and different-sex spouses equally for purposes of family reunification. Seventeen Member States grant family reunification rights to same-sex partners of third country nationals. Eleven Member States appear not to extend family reunification rights to unmarried partners of sponsors, either of the same or of a different sex. Finally, 11 EU Member States treat same-sex spouses of asylum-seekers equally to different-sex spouses. Same-sex registered partners appear to enjoy the right to residence in 16 Member States.

## RECOMMENDATIONS

According to FRA opinion, EU institutions and Member States should consider explicitly incorporating same-sex partners – whether married, registered, or in a de facto union – into the definition of 'family member'. Specifically, in the context of free movement, this could be achieved by explicitly adopting the 'country of origin' principle already established in other areas of EU law. Thus, Member States should consider acknowledging the civil status granted in another Member State to facilitate the right to freedom of movement for all EU citizens.

EU Member States should ensure that the effects of civil status documents are mutually recognised, so that same-sex couples and trans people can exercise their freedom of movement and right to family reunification on an equal basis with others.

## SITUATION IN THE THREE COUNTRIES INVOLVED IN THE PROJECT

Italy: Today, it is the only major Western European country without any form of legal recognition for same-sex couples. Over the past few years, pressure has been mounting and recent polls have shown a growing majority support marriage equality. Faced with stagnation on the national level, a number of cities and municipalities, including Rome, Milan, and Naples, have legalized civil union registries, which however offer very limited rights to couples.

On 21 July 2015, the European Court of Human Rights ruled that in not recognizing any form of Civil union or same-sex marriage in Italy, the country was failing to fulfill its obligations under Article 8 of the European Convention of Human Rights.

To fill in this gap, a draft law (draft law n. 2081 - so called disegno di legge Cirinnà bis ) was presented at the Senate on 14.10.2015. It was supposed to provide for legal recognition of same-sex couples and allow the adoption of the partner's children (step child adoption) from a previous relationship. It was also supposed to recognize de facto unions between both same-sex couples and heterosexual couples and to establish the civil union between same-sex people as a “specific social formation”.

Following a long and heated parliamentary and social debate, the law n. 76 of 20 May 2016 called “Regolamentazione delle unioni civili tra persone dello stesso sesso e disciplina delle convivenze”. ("Regulation of civil unions between same-sex and discipline of persons") was approved on 11 May 2016 with 372 yes, 51 no and 99 abstentions.

The new law regulates the civil union between persons of the same sex: homosexual couples, qualified as "specific social formations" , may take advantage of a new legal institution called civil union. In this regard, reference is made to the Article 2 of the Constitution on the inviolable rights of human persons, considered as both individuals and as members of social formations and to equality of citizens regardless of sex, and to the Article 3 of the Constitution on equal social dignity of citizens regardless of sex.

Civil union between two adult people will take place before a government official and with two witnesses and it will be recorded in the archive of the civil state. The acts of the union, indicating personal data, the marital agreement and the residence shall be recorded in the archive of marital status. The parties may agree upon a common surname for the duration of the union, choosing it from their surnames and they may add it before or after one's own surname, if different. Concerning other aspects, the bill extends the rights provided for by civil marriage to same-sex couples.

Same-sex unions are recognized as a substantially different bond compared to marriage between heterosexuals, although they share similar obligations and rights. Paragraph 20 also states explicitly that, in order to protect rights and duties, "the provisions that refer to marriage" in all other laws, and those that contain the words "spouse" and "spouses" shall also apply to couples joined in a civil union.

Civil unions differ from marriage for what concerns the obligation (in marriage) to use the surname of the man as common surname and the time required for the separation before breaking the union (in marriage separation shall last from six months to one year, in civil unions three months will be enough). Furthermore, marriages can be broken in the case they are not "consummated" and "banns" shall be published before marrying.

The most significant differences between the two legal institutions concern the stepchild adoption and the duty of fidelity. Both of them were included in the draft law (Article 5 on stepchild adoption, Article 3 on duty of fidelity), but they were eliminated in the final text of the bill.

On issues related to succession, inheritance and revertible pension, the Civil Code on marital agreement and community of property apply. Concerning the surname, the two people

can choose the common surname to use, between those of the two parties (while in marriage the wife has to add her husband's surname to her own one); one's own surname can also precede or follow the common surname. The two people agree on a common residence and may decide, as in marriage, to use the marital agreement of community of property .

The second part of the law disciplines unregistered cohabitation between two unmarried people, either heterosexual or homosexual, who may sign cohabitation agreements in writing, before a notary. It is a relationship that binds two adult people together who are permanently joined by sentimental bonds and mutual moral and material assistance and are not bound by kinship, affinity or adoption, marriage or civil union.

Concerning adoption and foster care, they are at present regulated by Law 184/1983, which allows adoption only to married couples who must be only opposite-sex couples. However, on 11 January 2013 the Supreme Court of Cassation upheld a lower decision of court which granted the sole custody of a child to a lesbian mother. The father of the child complained about the homosexual relationship of the mother which would be dangerous for the child. The Supreme Court rejected the father's appeal because it was not argued properly.[17] On 15 November 2013 it was reported that the Court of Bologna chose a gay couple to foster a 3-year-old child.[18]

In 2010, the Constitutional Court (Corte Costituzionale) issued a landmark ruling where recognized same sex couples as a "legitimate social formation, similar to and deserving homogeneous treatment as marriage".[15] Since that ruling, the Corte di Cassazione (the last revision court for some issues such as commercial issues or immigration issues) remanded a decision by a Justice of the Peace who had rejected a residence permit to an Algerian citizen, married in Spain to a Spaniard of the same sex. After that, this same judiciary stated that the questura (police office, where residence permits are issued) should deliver a residence permit to a foreigner married with an Italian citizen of his same sex, and cited the ruling.

Anyway, there have been cases of Regions/courts that have somehow legally recognized marriage for same-sex couples. For instance, the Tribunals of Reggio Emilia and Pescara

ruled that same-sex couples married abroad must be treated in the same manner as different-sex married couples with regard to the right to freedom of movement. These rulings were confirmed by a clarification note of the Ministry of Internal Affairs.

Then, a recent Tribunal of Grosseto decision was followed by a public awareness campaign – targeted at city mayors – on transcribing certificates of marriages between same-sex couples entered into abroad.

Supported by the legal advice of *Avvocatura per i diritti LGBT – Rete Lenford*, an association of Italian lawyers established in 2007 to develop and disseminate the culture and respect of LGBTI people's rights, a number of mayors decided to transcribe these marriages in their city registrar offices. The Ministry of the Interior contested the mayors' initiative on the ground that same-sex marriage is not allowed in Italy

It is worth noting the particular situation of Italy, where same-sex couples do not have access to marriage and the right to family reunification is not recognized for persons in same-sex marriages by Legislative Decree No. 5/2007, which implements the Family Reunification Directive. Therefore, a differentiation is established between third-country nationals and EU spouses. Concerning the latter, the Minister of Internal Affairs released a circular clarifying that, when one or both same-sex spouses is an EU citizen, they should be treated as family members.

Both Netherlands and Spain allow same-sex couples to marry and they do not distinguish between same-sex spouses and different-sex spouses of foreign EU citizens for purposes of entry and residence rights and treat same-sex and different-sex spouses equally for purposes of family reunification.

#### IV. EMPLOYMENT

According to the Employment Equality Directive (Directive 2000/78/EC) which was adopted, unanimously, by the Member States in 2000, discrimination on grounds of religion and belief, age, disability and sexual orientation shall be prohibited in employment and occupation, vocational training and membership of employer and employee organisations. At the Article 1-Purpose, it is stated: The purpose of this Directive is to lay down a general framework for combating discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation, with a view to putting into effect in the Member States the principle of equal treatment.

The Directive has been transposed into national law by the three countries involved in the project in 2003.

According to the Recommendation CM/Rec(2010)5, Member states should “ensure the establishment and implementation of appropriate measures which provide effective protection against discrimination on grounds of sexual orientation or gender identity in employment and occupation in the public as well as in the private sector. These measures should cover conditions for access to employment and promotion, dismissals, pay and other working conditions, including the prevention, combating and punishment of harassment and other forms of victimisation. Particular attention should be paid to providing effective protection of the right to privacy of transgender individuals in the context of employment, in particular regarding employment applications, to avoid any irrelevant disclosure of their gender history or their former name to the employer and other employees.

To support Member States in the implementation of the Recommendation, the Commission intends to raise awareness amongst businesses of the benefits of an inclusive workplace, involving also trade unions and social partners. This will be done through the EU Platform of Diversity Charters

and the action includes a publication on the business case of LGBTI inclusion for both private companies and public authorities, including examples and best practices in the EU and beyond (see [http://ec.europa.eu/justice/discrimination/document/index\\_en.htm](http://ec.europa.eu/justice/discrimination/document/index_en.htm) for further details).

The Commission will also set an example as an employer that values an inclusive workplace by creating and publicizing its internal diversity strategy, which includes amongst other actions specific training on diversity for both managers and staff that will take into account the grounds of sexual orientation and gender identity.

## SITUATION IN THE THREE COUNTRIES INVOLVED IN THE PROJECT

In Spain laws have been changed to improve or strengthen the implementation of the Employment Equality Directive: a new Act on Labour Proceedings

was enacted in 2011 which shifts the burden of proof when a plaintiff's allegations establish facts from which it may be presumed that discrimination has occurred. This means that, once workers have shown facts indicating discrimination, employers must provide proof that they have not discriminated, as opposed to the victims having to prove that they have been discriminated against. In addition, the Act states that a judge or court may seek the opinion of relevant government agencies when discrimination is based on sexual orientation. Finally, in cases of discrimination based on the grounds listed in the law, including sexual orientation, a court may initiate a process ex officio.

In 2013, the Spanish Constitutional Court deemed discriminatory and thus unconstitutional a provision requiring a couple to have children in common in order to receive a widow's allowance based on the deceased partner's previous employment, given that this requirement is almost impossible to fulfill for same-sex couples. Based on this decision, the Spanish Constitutional Court ruled that denying an allowance to a transsexual widow for not

having children in common with his late spouse was discriminatory and counter to the equal treatment principle.

Spain has launched the Diversity Charter in 2009 on the initiative of the European Institute for Managing Diversity with the support of the Ministry of Equality.

In Italy, a case brought to court by Lawyers for LGBTI rights – Lenford Network (Avvocatura per I Diritti GLBTI – Rete Lenford) resulted in the first ruling in Italy applying the Employment Equality Directive with respect to discrimination based on sexual orientation (August 2014). The case involved a lawyer who in a radio interview repeatedly said that he would never hire a homosexual person in his law firm. The Bergamo Tribunal, Labour Section (Tribunale di Bergamo, Sezione lavoro), recognised that the lawyer’s statements could constitute discrimination against homosexual people because they quite likely discouraged them from submitting their application and, therefore, were intended to prevent or hinder access to employment. The statements had a demoralising and deterrent effect on individuals who hoped to be recruited by the defendant’s law firm. The tribunal found that the statements constituted discrimination under the Employment Equality Directive, even though the defendant was not performing recruitment activities at the time he made them. The decision states that discrimination includes behaviour that prevents or hinders access to employment on an abstract level.

Concerning access to employment-related partner benefits by same-sex couples, the Court of Appeal of Milan, Labour Section (Corte di appello di Milano – sez. lavoro), decided in 2012, a case concerning same-sex couple benefits relating to work contracts. The applicant was a bank employee who benefited from a health insurance scheme for himself and for his wife or cohabiting partner on payment of a given amount. When the applicant submitted a formal request to include his male partner in the scheme, the bank refused it because it interpreted ‘cohabiting partners’ as including different-sex partners only. The Court of Appeal noted that the notion of cohabiting partners has evolved and is not limited to its traditional interpretation, which excluded two persons of the same sex who live together. The court stated that the term must be interpreted in light of current social reality, and in the light of both Italian Constitutional Court Decision No. 138/2010 and the ECtHR’s

Schalk and Kopf case, which treat same-sex couples as having the same fundamental right to family life as unmarried different-sex couples. The Court of Appeal therefore concluded that the applicant's same-sex partner should be allowed to register with the employer's health assurance scheme.

In Italy, there are some examples of good practices that encourage measures to reduce sexual orientation and gender identity discrimination, including awareness activities for the public administration. At the local level specific offices dealing with LGBTI matters have established in some municipalities (Turin,

Venice

and Bologna

) in order to implement the respective city councils' commitment to addressing LGBTI issues and developing anti-discrimination policies. Regarding the role of public administrations, Italy has RE.A.DY

(National network of public administrations to combat discrimination based on sexual orientation and gender identity), a national network for local and regional public administrations to exchange good practices for promoting the civil rights of LGBTI people

. The network has 75 members (in six regions, 11 provinces and 51 municipalities, including the Municipality of Bari and the Regione Puglia, which joined the network in October 2015).

Italy has launched the Diversity Charter in October 2009 on the initiative of Sodalitas, an association working to promote corporate social responsibility. It is supported by the Ministry of Labour and the Ministry of Equality as well as many by a large number of associations and entrepreneur networks working for diversity.

An Italian version of the Diversity Charter can be found at:  
<http://www.cartapariopportunita.it/files/10/Carta%20con%20loghi%20def.pdf> (for private

companies) and

[http://www.cartapariopportunita.it/files/10/Carta\\_Pubbliche%20Amministrazioni.pdf](http://www.cartapariopportunita.it/files/10/Carta_Pubbliche%20Amministrazioni.pdf) (for public administrations).

The Netherlands aligned the wording of the General Equal Treatment Act (Algemene wet gelijkebehandeling)

with that of the Employment Equality Directive in terms of defining direct and indirect discrimination

. The General Equal Treatment Act contains an exception for institutions founded on religious principles, stating that they may impose “requirements which, having regard to the institution’s purpose, are necessary for the fulfillment of the duties attached to a post” – unless these requirements lead to a distinction based on “the sole fact of” (for example) homosexual orientation (Article 5(2)). The European Commission has criticised the law’s failure to specify that these requirements must be legitimate and proportional. In 27 May 2014, the Lower House of Parliament of the Netherlands approved a bill that proposes rephrasing this exception and limiting its scope by removing “the sole fact of”; the bill came in force on 1 July 2015

<https://www.mensenrechten.nl/toegelicht/afschaffing-van-de-enkele-feitconstructie>).

Concerning good practices, Workplace Pride, an international platform for the inclusion of LGBT people at work carried out a study on the inclusion of LGBT employees in the Netherlands (TALENT TO CHANGE FOR LGBT EMPLOYEE RESEARCH LEADING THE WAY IN DIVERSITY). The study includes also recommendations providing practical guidance to organisations seeking to be proactive in improving the inclusion of LGBT in the workplace and in contributing to build a business case for diversity (e.g. Ensure competence of staff that handle complaints by providing training on sexual orientation and gender identity issues; Monitor homophobic and transphobic incidents). To ensure improvement in the workplace for LGBT people, the Workplace Pride Foundation has created the Declaration of Amsterdam, a call for action to all parties involved: LGBT and non-LGBT employees, Em-

employers, Unions and Governments to promote, improve, measure and externally communicate LGBT inclusiveness within the company organization.

Finally, at international level, an interesting study (Open for Business

- The economic and business case for global LGB&T inclusion By Jon Miller and Lucy Parker), stresses that “Open, inclusive and diverse societies are better for

business and better for economic growth”. The report presents the evidence base that supports this: it demonstrates that businesses thrive in tolerant societies and that the spread of anti-LGB&T policies runs counter to the interests of business and economic development. As described in the report “For many leading businesses, it is a strategic imperative to create a culture of inclusion and diversity that extends to LGB&T people: they know that it correlates to greater individual performance and, ultimately, stronger business performance”.

## RECOMMENDATIONS

based on the Conclusion document issued at the end of the conference on ‘Tackling sexual orientation and gender identity discrimination: Next steps in EU and Member State policy making’

, held in October 2014 in Brussels

Employers, in cooperation with trade unions, should take proactive measures to promote equality and encourage diversity in working environments. This could be done through dedicated campaigns, diversity and equality strategies at work and other measures.

## V. EDUCATION

The Recommendation CM/Rec(2010)5 states that “member states should take appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; this includes, in particular, safeguarding the right of children and youth to education in a safe environment, free from violence, bullying, social exclusion or other forms of discriminatory and degrading treatment related to sexual orientation or gender identity. [...] appropriate measures should be taken to this effect at all levels to promote mutual tolerance and respect in schools, regardless of sexual orientation or gender identity. This should include providing objective information with respect to sexual orientation and gender identity, for instance in school curricula and educational materials, and providing pupils and students with the necessary information, protection and support to enable them to live in accordance with their sexual orientation and gender identity. Furthermore, member states may design and implement school equality and safety policies and action plans and may ensure access to adequate anti-discrimination training or support and teaching aids. Such measures should take into account the rights of parents regarding education of their children”.

International bodies are traditionally extremely hesitant to agree on joint guidelines on education, except the minimum aspect of the right to education (access to primary and secondary school). However, in the last decade it has become increasingly clear that discrimination and stereotyping are serious threats to quality education.

In 2007, the Croatian human rights organization "Interights" filed a complaint with the European Committee of Social Rights against the Croatian government for implementing a discriminatory sex education curriculum. The Committee partly agreed with the complaint. In 2009, the Council of European Ministers agreed on a resolution in this case. This was the first time in history that successful legal action on the international level was taken against a discriminatory curriculum. The case shows that the content of the curricula may be a national prerogative, but when curricula contain plain lies, this prerogative can be challenged. ( S o u r c e :

[http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints\\_en.asp](http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/Complaints_en.asp): 45/2007.)

In 2011, the European Fundamental Rights Agency (FRA) initiated the largest ever European research on LGBT discrimination among LGBT people themselves. The survey got more than 93,000 respondents. The results showed that two thirds of LGBT students hide their orientation or identity and 80% has been victimized through name-calling, bullying and other negative behaviour. The levels of negative behaviour do not vary very much between European countries, they range from 85% en 97% (Netherlands: 88%, Spain: 91%, Italy: 93%). This FRA report concludes that schools are the location of most discrimination compared to other sectors. (Sources: <http://fra.europa.eu/en/publication/2013/eu-lgbt-survey-european-union-lesbian-gay-bisexual-and-transgender-survey-results>, <http://www.edudivers.nl/nieuws/2013/groot-europees-onderzoek-pleit-voor-aandacht-homofobie-in-onderwijs>.)

The Commission will support Member States through the organization of a best practice exchange on LGBTI anti-discrimination actions in education and homo and transphobic school bullying, safe school environments and diversity lessons at school in the context of the tolerance and diversity policy development that will implement the Paris Declaration. Such a best practice exchange will involve relevant national authorities, schools, police forces. The Commission will present, promote and disseminate existing guidelines and successful experiences on these matters and will publish a report for wide dissemination.

The Commission has commissioned two analytical reports to be published by the end of 2015. One is focusing on bullying in schools covering areas of gender, racism, disability and sexual orientation and the other is on Tolerance and Diversity. These reports will feed in the policy development generated by the Paris Declaration of the EU Education Ministers, on March 17th, 2015.

In 2016, The FRA published a research report based on interviews with professionals across Europe, and concluded that - among other professional groups - teachers still lack the skills and sometimes the willingness to deal with homophobia (<http://fra.europa.eu/en/publication/2016/professional-views-lgbt-equality>, [http://www.gale.info/en/news/local\\_news/160316-european-teachers-still-hold-homophobic-transphobic-attitudes](http://www.gale.info/en/news/local_news/160316-european-teachers-still-hold-homophobic-transphobic-attitudes)).

## SITUATION IN THE THREE COUNTRIES INVOLVED IN THE PROJECT

In Italy, the Ministerial directive n. 16/2007 on general guidelines and actions at national level for the prevention and the fight against bullying (“linee di indirizzo generali ed azioni a livello nazionale per la prevenzione e la lotta al bullismo”) introduced the National campaign against bullying (2007-present). Its goals include a) recording and studying school violence and bullying, b) developing general strategies at national level for the prevention and fight against bullying, c) providing useful information for the prevention and fight against bullying, d) coordinating and facilitating targeted interventions at the local level. Each Region has its own observatory, which is composed of academics, school members, local authorities, and civil society. In general, the campaign includes activities and actions, such as a toll free number, email address, website, the Regional Permanent Observatories on Bullying in the framework of the Regional School Boards, other European, national and regional projects and initiatives in the prevention and fight against bullying.

In the Italian legal system, there is at present no specific regulatory framework for bullying and cyberbullying. Nevertheless, such a legal vacuum is filled by linking the single cases to the existing offences. Perpetrated actions can produce consequences which are punishable both under civil and criminal law. In particular, reference is made to the crimes of: battery (art. 581 of the Italian Penal Code), personal injury (art. 582 of the Italian Penal Code), insulting behaviour (art. 594 of the Italian Penal Code), defamation (art. 595 of the Ita-

lian Penal Code), duress (art. 610 of the Italian Penal Code), threat (art. 612 of the Italian Penal Code), criminal damage (art. 635 of the Italian Penal Code). If the offender is a person between the ages of 14 and 18, the provisions regulating juvenile criminal proceedings will be applied (pursuant to Decree No. 448 of the President of the Republic of 22 September 1988). If the perpetrator is a child under the age of 14 at the time of committing the act, rehabilitation measures can be adopted, since, according to the Italian legal system (art. 97 of the Italian Penal Code), he/she is not indictable.

A draft law has been unanimously approved by the Senate in May 2015. It is currently under examination by the Chamber of Deputies which has assigned it to joint commissions of Justice and Social Affairs. The draft law aims at setting some boundaries around an issue that is still very nebulous but without defining sanctions: it describes the cyberbullying phenomenon, regulates the removal of offensive contents on the Internet, defines when the Privacy Guarantor shall intervene and, most of all, it introduces a warning measure in the case of offences committed by people under age but older than 14 (the police commissioner shall summon the young person together with the parents and admonish him/her on his/her behavior). Then it strengthens education and awareness raising in schools – actions that are already partly acknowledged – and establishes a permanent interministerial table to contrast the phenomenon.

(SOURCE: [http://www.osservatoriopedofilia.gov.it/dpo/en/bullismo\\_e\\_cyberbullismo.wp](http://www.osservatoriopedofilia.gov.it/dpo/en/bullismo_e_cyberbullismo.wp))

GOOD PRACTICES in tackling bullying in Italy

#bellimanonbulli: Noemi and Totti against cyber bullying.

On the 23rd of April a new proposal of national law against bullying and cyber bullying was introduced during a workshop at the Chamber of Deputies. It proposes to regulate the use of internet and social network, after a long episodes of violence in school and on internet. According to a research carried out by Beatbullying (one of the biggest NGO tackling bullying in Europe), more than 70% of EU citizens thinks that national governments don't do enough to tackle bullying issues in 54 schools as well as cyber bullying. The Italian NGO

Telefono Azzurro, Beatbullying's partner, asks EU for establishment of an European Antibullying and Cyberbullying Day.

[http://www.adnkronos.com/IGN/News/Cronaca/Minori-Telefono-Azzurro-marcia-sul-web-per-dire-bastaa-bullismo\\_321251293379.html](http://www.adnkronos.com/IGN/News/Cronaca/Minori-Telefono-Azzurro-marcia-sul-web-per-dire-bastaa-bullismo_321251293379.html)

Campagna Nazionale contro il Bullismo (National campaign against bullying, Italy)  
[www.smontailbullo.it](http://www.smontailbullo.it)

“Matters change”: campaign of local government school department against homophobic bullying.

Over this academic year the school department of Roma government is promoting a project tackling homophobic bullying in high schools. It provides for several activities such as survey on students, meetings with representative of culture, theatre, cinema and medicine at schools and a contest among schools. At the end there will be a final event, holding on 17th of May, during the international day against homophobia.

<http://www.romanotizie.it/le-cose-cambiano-campagna-assessorato-scuola-contro-il-bullismoomofobico>.

Html

Incoming the first antibullying code “Insults will be removed by two hours”.

A draft of the first antibullying code was approved by a network composed by governmental authorities (Authority for privacy, Authority for childhood, Minister of economic development, fraud squad), associations (Confindustria and Assoprovider) and big stakeholders (Google and Microsoft).

[http://www.corriere.it/cronache/14\\_gennaio\\_08/arrivo-primo-codice-anti-bullismo-insulti-oppesse-sarannorimossi-](http://www.corriere.it/cronache/14_gennaio_08/arrivo-primo-codice-anti-bullismo-insulti-oppesse-sarannorimossi-entro-due-ore-a3816166-7892-11e3-8d51-efa365f924c5.shtml)

[entro-due-ore-a3816166-7892-11e3-8d51-efa365f924c5.shtml](http://www.corriere.it/cronache/14_gennaio_08/arrivo-primo-codice-anti-bullismo-insulti-oppesse-sarannorimossi-entro-due-ore-a3816166-7892-11e3-8d51-efa365f924c5.shtml)

Against bullying, violence and homophobia at school, a center for children mediation is born

This Thursday, 5 of June, will take place, at Pisana, a discussion between advisors, regional counselors, representatives of schools, institutions and different organizations about the creation of a mediation center for children issues related to bullying, violence and homophobia.

[http://roma.repubblica.it/cronaca/2014/06/02/news/contro\\_bullismo\\_violenze\\_e\\_omofobia\\_a\\_scuola\\_nascono\\_nelle\\_asl\\_i\\_centri\\_per\\_la\\_mediazione\\_minorile-87902619/](http://roma.repubblica.it/cronaca/2014/06/02/news/contro_bullismo_violenze_e_omofobia_a_scuola_nascono_nelle_asl_i_centri_per_la_mediazione_minorile-87902619/)

Facebook in Italy, a platform against bullying

Facebook Italia, together with Save the Children and Telefono Azzurro, had created a campaign, with the help of Yale Center for Emotional Intelligence, to help those who suffer from violence through this platform, showing them what to do or who to response to this offenses.

[http://www.ansa.it/sito/notizie/tecnologia/internet\\_social/2014/05/21/fbin-italia-piattaforma-controbullismo\\_72ece7c3-9f85-4890-844a-60c6dc5a5ec8.html](http://www.ansa.it/sito/notizie/tecnologia/internet_social/2014/05/21/fbin-italia-piattaforma-controbullismo_72ece7c3-9f85-4890-844a-60c6dc5a5ec8.html)

Cyber bullying, cyber stalking and dangers in the Web!

The State Police of Italy, Polizia di Stato, had carried out a meeting with children from the school Antonino Caponnetto, located in Caltanissetta, Sicily. To change ideas of what they

think about cyber bullying, and explain to them how to use internet in a safe way, this includes, how to block people who bother you, how to set up the privacy settings correctly... And also useful links to inform about this attacks.

<http://questure.poliziadistato.it/Caltanissetta/articolo-6-128-66828-1.htm>

An European project against bullying and cyber bullying. On the 25th of March Presentation at Palazzo Ducale.

On the 25th of March the Beatbullying Europe project will be presented at Palazzo Ducale, in Lucca. This European project promotes actions able to record bullying and cyber bullying phenomena and identify its causes. Through peer-mentoring/peer-support, It aims at reduce these issues. One of the results will be the training of 250 mentors will work online. Beatbullying Europe is similar to the local project Noncadiamointrappola implemented at schools in Lucca last years.

<http://www.gonews.it/2014/03/24/lucca-un-progetto-europeo-contro-bullismo-e-cyberbullismopresentazione-a-palazzo-ducale-il-25-marzo/#.UzUvXc65GZQ>

Report on the tour “Facebook: Parents’ revival”

On the 1st of February 2014 the workshop “Facebook: Parents’ revival” organized by the regional government of Sicily in numerous schools of cities is ended with a lot of participations of students and parents. 1000 copies of the book “Facebook: Parents’ revival” was distributed to the schools. The workshop as well as the book illustrated the dangerous side that Facebook can have for the youngsters.

<http://corecom.ars.sicilia.it/resoconto-tour-facebook-genitori-alla-riscossa/>

Bullying, handbook for youngsters and families.

The Prefecture of Rovigo (a northern Italian town), together with the local security force, has written “Bullying and cyberbullying: what to do?”, handbook for educators, guys and families concerning bullying and cyber bullying; the last one is a phenomenon that is growing a lot. In order to prevent it, it ‘s necessary to involve actively all stakeholders.

<http://www.ilrestodelcarlino.it/rovigo/cronaca/2014/01/31/1018647-bullismo-vademecum-famiglie.shtml>

NETHERLANDS has, since 2010, implemented anti-bullying plans in schools to create a supportive environment for LGBTI children and students. These include: Decision of 21 September 2012 amending five Decisions (the Decision on renewed key objectives for primary education, the Decision on key objectives for lower secondary education, the Decision on key objectives regarding the law on expertise centres, the Decision on key objectives of primary education in [the three Carribean] BES islands, and the Decision on the lower secondary education in BES islands), as regards the adjustment of the key objectives in the area of sexuality and sexual diversity

In 2012, after a substantial advocacy of the LGBT movement and under parliament pressure, the Dutch government changed the central guidelines for primary and secondary schools and make it mandatory to educate about "respect for different opinions lifestyles, including sexuality and diversity, including sexual diversity") (Source: <https://www.rijksoverheid.nl/documenten/besluiten/2012/09/28/besluit-houdende-wijziging-van-de-kerndoelen-onderwijs-op-het-gebied-van-seksuele-diversiteit>). This provision was meant to have a broader impact on school safety. However, the implementation of these guidelines is slow. It appears that schools are not really giving much more education and that the quality of the education is lacking.

In late 2013 and early 2014, a series of 3 teen suicides related to bullying created a lot of public debate on the anti-bullying policies. Two of the three incidents were related to homophobic bullying. The government responded with a law proposal to oblige schools to moni-

tor bullying through a mandatory national incident registration system, make an bullying prevention plan, to appoint a school bullying prevention coordinator and to use only evidence based anti-bullying programs. The national federations of school boards tried to stop this because it was perceived to threaten the autonomy of schools. After a negotiation between the federations and the government, the law was edited to the obligations "to monitor school safety (school is free to choose instruments), to have a school social safety plan (school is free in focus and content), and to appoint a school safety coordinator" (<https://zoek.officielebekendmakingen.nl/stb-2015-238.html>). In return, the federations agreed to work more actively on stimulating and supporting their schools to implement this policy and the government founded a national expertise centre on school safety (Stichting School en Veiligheid). Despite the number of homophobic suicides, the aspect of homophobia was largely lost in the debate and in the law itself. The minister writes in the "law explanation": "schools should be sensitive to bullying of vulnerable groups like homosexual and autistic students)."

In SPAIN there have been significant developments since 2010 regarding protection from discrimination in the context of education and/or professional training. The Organic Law for improving the quality of education (Ley Orgánica para la mejora de la calidad educativa)

modified the Organic Law on Education (Ley Orgánica de Educación)

and introduced explicit sanctions for discrimination based on sexual orientation or gender identity. The corrective measures must be educational and restorative and must ensure respect for the rights of other students and improve relations with all the members of the educational community. Corrective measures should be proportionate to the act committed. Behaviours that violate the personal dignity of other members of the educational community, arising from or resulting in discrimination or harassment based on gender, sexual orientation or identity, among other grounds, or carried out against the most vulnerable students in their personal, social or educational qualification characteristics, are considered very serious offences. Decisions about corrective action regarding the commitment of minor offences are immediately enforceable.

Furthermore, Cataluña region has issued, on 10.10.2014 the Law n. 11/2014 to protect the rights of LGBTI people and to eradicate homophobia, biphobia and transphobia in education. According to this law, educational actions shall be undertaken to strengthen real equal opportunities and eliminate any form of discriminations based on sexual orientation, gender identity or gender expression (Article 12).

## Article 12. Education

1. Concerning this law, we understand coeducation as an educational action that promotes the real equality of opportunities and the elimination of every kind of discrimination due to sexual orientation, gender identity or gender expression.
2. According to this principle of coeducation, sexual and affective diversity and different models of family must be protected in the education environment.
3. Coeducation principle must be included in the tutorial plans and cohabitation rules at school.
4. The contents of scholar, educational and training materials, whatever their formats are, and the vocabulary used in them must take into account the diversity concerning sexual orientation, gender identity and gender expression and avoid every kind of discrimination.
5. Respect for diversity concerning sexual orientation, gender identity and gender expression and the principles of this law must be effective in the whole education system, in training centres, adults education, parents' training, school sport activities and children's and young leisure activities.
6. The prevention of violence concerning sexual orientation, gender identity and gender expression and raising awareness about it must be promoted and tools to detect and avoid discrimination due to these reasons must be provided to the centres. The effective development of plans for living together must be promoted, paying special attention to measures to prevent and avoid bullying against LGBTI people at school.

7. The Administration, by the department of education, must guarantee the fulfillment of this article and look out for the schools and education centres to be friendly environment for sexual and affective diversity, as well as students and teachers to live their sexual orientation, gender identity and gender expression in a natural way, creating positive models for the whole school community.

### Article 13. Universities

1. The principles of nondiscrimination and respect to sexual orientation, gender identity and gender expression are also applicable to university environment.

2. The Administration and the universities of Catalonia, respectful towards the academic freedom and autonomy of the universities, must promote jointly measures to protect, help and research for the visibility of LGBTI persons and the development of measures against discrimination and to increase awareness in the university. For that, they must elaborate a protocol of nondiscrimination due to sexual orientation, gender identity and gender expression.

We provide hereunder a table, taken from the GALE policy checklist

, which collects a list of indicators concerning the implementation of the right to education in the countries involved in the project:

Scores:

1. No, this is forbidden or denied
2. There is no clear policy on this, but it is discouraged
3. There is no policy on this
4. It is encouraged, but there is no clear policy on this
5. Yes, there is evidence to support this

## 6. No data available

### OTHER EU GOOD PRACTICES

STIR project Safeguarding Teenage Intimate Relationship is a research project funded by the Daphne III Programme of the European Commission's Directorate General Justice. STIRitAPP is designed with young people for young people who want to know more about relationships, and to explore their own attitudes and behaviours using interactive technology. It guides the user in a journey to explore different aspects of relationships, to assess their partner's and their own behaviour in a relationship, and to find out how they can ask for help if they need it. STIRitAPP is created in consultation with groups of young people in five countries, who have developed and discussed the app proposals and been involved all stages of the project on the STIR website [www.stiritup.eu](http://www.stiritup.eu) and with project partners. In the app, there are two quizzes, an interactive story, an overview of the findings of the STIR research, and a series of links and resources to assist you in asking for help or advice on your situation. The content of the app is also available entirely through the [www.stiritapp.eu](http://www.stiritapp.eu) website.

### RECOMMENDATIONS

During the exchange organized in Amsterdam in November 2015 in the framework of LE-GOP project, the 12 Dutch students of the Amsterdam Hyperion College and the 24 Italian students of Liceo Gaetano Salvemini (Bari, Italy) involved, developed their recommendations for LGBTI safer school, which were also presented during a public event (symposium) organized for and by the students themselves. In the week prior to the symposium

the students were engaged in an interactive program which allowed to carry out a school research on school safety and diversity and make an educational film about homophobia.

Here follow the students' recommendations:

1. **INTEGRATION:** Everyone should receive education about sexual diversity, because it is relevant to everyone. This should not be taught in additional or separate classes, because that would emphasize "differences", and we would rather see LGBTI issues normalized. Lessons about sexual diversity should not repeat the same topics, like lingering on basic awareness. Lessons should be different each time. It is good to invite LGBTI people.

2. **TOGETHER:** Students must work with teachers to determine the content of the lessons. Teachers should engage on a personal level with students. Education is not just learning facts, but also about personal development. Therefore, teachers need to be open and talk about sensitive issues.

3. **DISCRIMINATION ALLIANCES:** The students were very impressed by their conversation with lesbian and gay pupils from some Dutch Gay / Straight Alliances. After discussion about this method, they decided that every school should have an alliance. But the preferred such an alliance to focus on the fight against discrimination in general and not only on LGBTI issues.

4. **SCHOOL BEHAVIOR:** The students recommend that every school should have clear basic school rules on social behavior in school. They also think that it is essential that all students should be involved at the start of each year in the drafting of such rules.

5. **DIVERSITY:** Students say that the term "sexual diversity" is better than "LGBTI". Acronyms keep labeling people and may lead to further stereotyping and stigmatizing. Furthermore, this struggle is not only about LGBTI. Heterosexual young people should also be emancipated.

6. **TRAINING:** Training teachers is important. Otherwise, they cannot give good lessons on sexual diversity or support LGBTI students.

7. **HOTLINE:** Schools should set up an anonymous email or telephone hotline. That way, students could ask questions and they can ask help of other students or teachers.

8. **MENTOR:** The students would like ONE mentor that they can address their entire school career. The teachers commented they find this difficult to organize. They also feel that students need to learn to get guidance from different people. But the pupils think these arguments do not outweigh the disadvantages of a mentor that alternates each year.

9. **INTERACTIVE:** Students find that the courses should be more interactive. This way would they become more involved with the knowledge. But more importantly: they would learn skills better that way when working interactive with each other.

10. **SPIRAL CURRICULUM:** The students recommend that schools should improve the consistency of their program. Instead of modules and courses with individual lessons, the curriculum should have a logical and consistent build-up. This consistency should start in the first lesson of the first grade and last until the final exam lesson. This is especially important when it comes to basic skills and diversity.

Recommendations 1-4 were presented at the beginning of the symposium, while recommendations 5-10 were developed by the students based on the suggestions they received from the round table discussions with parents, teachers, Dutch activists and educators, foreign activists and a group of researchers and experts organized on the same day of the symposium.

## RECOMMENDATIONS BASED ON THE RESULTS OF THE STRATEGIC WORKSHOP CARRIED OUT IN BARI IN JUNE 2016

During the final meeting of the project, in June 2016, Peter Dankmeijer of GALE facilitated a strategic workshop on educational policy to combat homophobia and transphobia in the region of Puglia. The workshop was hosted by the Liceo Salvemini of Bari and started with an assessment of the 30 participants (mainly teachers) on the situation in Puglia. This

was done by filling in a short survey on the implementation of the right to education. Based on these survey results, GALE made an overview of the level of implementation. The monitoring tool that GALE developed for this, the GALE Right to Education Checklist, distinguished of "denying", "ambiguous" and "supportive" policies by authorities. In the overview below, a summary of the participants assessments is given.

With an average score of 2.03 on a scale of 5, the participants scored the anti-homophobia policy of Puglia in schools as on the low end of ambiguous. When we look at the scores per checkpoint, the answers of the participants could vary quite widely. During the discussion in the workshop, it became clear that these varying assessments had not to do so much with the policy of the region, but with the perceived level of homophobia in schools in the rural countryside and the local cities and towns. Urban areas were deemed to be much more open to diversity, while most participants thought that catholic and local traditions prevailed in the countryside, often resulting in a more negative environment for LGBT students and gender non-conforming students. This clarification led to the recommendation to distinguish in the Puglia policy between rural and urban areas.

The survey also showed that quite a number of participants felt they could not assess some checkpoints because they were not aware of the Puglia policy on that domain or they did not know the impact on students. This led to the recommendation to do more research, especially on these questions:

1. To what extent are LGBT student missing lessons or drop out of school?
2. Do LGBT students reach similar school results as heterosexual and cisgender students?
3. Are teachers aware of human rights and do they implement them in school?
4. Do LGBT students feel they have freedom of self-expression, like coming out?

5. Do LGBT experience the same level of school safety as other students?
6. Are LGBT staff discriminated in employment?
7. Is there enough positive public information about sexual diversity available in Puglia?
8. Are there enough resources and support for LGBT youth in Puglia?
9. Can LGBT students/youth meet each other easily, both in cities and in rural areas?
10. What do teachers need to better teach sexuality education and diversity and to support LGBT students?
11. How do LGBT students feel about the support of the school environment?

The first 5 of these questions need to be answered by statistically comparing LGBT and heterosexual/cisgender students. This can only be done in large scale youth research initiated by the Puglia region. The other questions can also be answered by smaller scale and qualitative research, like focus groups discussions with LGBT youth.

We provide hereunder more detailed recommendations referred to the various issues dealt with in the short survey filled in by the participants to the strategic workshop that could be useful also for other schools:

1. **ACCESS TO SCHOOL:** Most respondents believe LGBT students have access to schools. Still, more than 40% is ambiguous or does not agree. Since it is unclear why the respondents are ambiguous about this, it would be advisable to discuss this issue in focus groups.

2. **FREEDOM OF EXPRESSION:** Half the participants score ambiguous and the rest is almost equal divided among denying and supportive, giving an impression of disagreement. This may be due to the difference in attitude in rural and urban areas. Carrying out deeper and more extensive research would help to get a reliable view of the situation and develop strategy that takes differences into account.

3. **BULLYING:** More than half the participants agree anti-bullying policies are not sufficient. Another 26% thinks this is ambiguous. This results points to a need to develop better and more (DESPOGI) inclusive anti-bullying policies in schools.

4. **DROP-OUT:** Exactly one third of the participants assess the anti-drop out policies of schools either supportive, ambiguous or denying. This point to massive disagreement on this issue. Also in this field, it would be advisable to carry out deeper and more extensive research to get a reliable view of the situation.

5. **ACADEMIC PERFORMANCE:** Equal numbers of participants score this as supportive and ambiguous. The impression is that they assess this aspect as more positive than other aspect but that opinions still differ. Including a question on same-sex attraction in a general education assessment survey would enable a reliable comparison between the results of same-sex attracted and other sex attracted students. Adding a third option to the male/female question would give such information about transgender students (if the sample is large enough).

6. **PUBLIC INFORMATION:** 37%/38% score this as either ambiguous or supportive, showing a high level of different opinions. This may reflect differences between rural and urban areas or disagreement. It would be useful to carry out specific research to show the real content of public information (mass media, internet, libraries). It may also be useful to assess which media are used by rural and urban students in order to develop high impact strategies.

7. **AVAILABILITY OF SUPPORTIVE CURRICULA:** half the participants score ambiguous and 39% scores denying. This points to a rather low LGBTI related quality of the curricula which thus need to be reviewed and improved thanks to the cooperation between LGBTI activists, experts and teachers.

8. AVAILABILITY OF SPECIFIC RESOURCES FOR DESPOGI: almost half the participants score this as denying, thus as a lack of resources, but 37% thinks there are LGBT resources, so opinions differ. Thus it would be necessary to find out why opinions differ on this. This may be done by mapping and publishing the resources available, but also by using a survey to ask young people about if they know where resources can be found and if they would use them.

9. AVAILABILITY OF SUPPORT SERVICES FOR DESPOGI STUDENTS: equal scores denying and supportive have been observed. It would be interesting to map the support services and research if students can access them both in rural and urban areas.

10. INFORMAL PEER-LEARNING OPPORTUNITIES FOR DESPOGI STUDENTS: more than half the participants think there are peer-learning opportunities, but there are also sizable minorities who deny this or is ambiguous, so it would be advisable to ask LGBT youth in urban and rural areas about their experiences and needs on this.

11. SKILLS OF SCHOOL STAFF: almost as many participants score the skills of teachers to teach about sexual diversity as supportive as denying, thus it would be advisable to survey and do focus groups among teachers about what they need to teach sexuality education and to combat homophobia and transphobia.

12. SCHOOL ENVIRONMENT: The relevant question was answered quite ambiguously, thus it would be necessary to survey the assessment of LGBT students about the level of support in their school environment and do qualitative research to find out the exact factors that worry LGBT students most.

13. EMPLOYMENT PROTECTION: Italy has signed the European equal opportunities directive on employment, so in theory all EU regions should implement that right. However still 53% of the participants score this as denying. This means they think a gay, lesbian or transgender teacher could be fired based on their identity. It is advisable to survey LGBT teachers how they feel about this and collect examples of LGBT staff employment discrimination to advocate for equal treatment. This can among other things be done by going to court about discrimination cases.

Finally, we report here recommendations based on the Conclusion document issued at the end of the conference on ‘Tackling sexual orientation and gender identity discrimination: Next steps in EU and Member State policy making’

, held in October 2014 in Brussels:

Schools should design and implement policies aimed at discouraging bullying against LGBTI students. Teachers and students as well as parents should engage in open discussions to raise awareness on the particular problems faced by LGBTI persons. To this end, school curricula should include objective information on sexual orientation, gender identity and gender expression. Diversity training should be mandatory for teachers and social workers, enabling them to recognise the vulnerabilities of LGBTI students and helping them to prevent bullying and harassment.

## VI. HEALTH

According to the Recommendation CM/Rec(2010)5 Member states should take appropriate legislative and other measures to

1. ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; in particular, they should take into account the specific needs of lesbian, gay, bisexual and transgender persons in the development of national health plans including suicide prevention measures, health surveys, medical curricula, training courses and materials, and when monitoring and evaluating the quality of health-care services.

2. avoid the classification of homosexuality as an illness, in accordance with the standards of the World Health Organisation.

3. ensure that transgender persons have effective access to appropriate gender reassignment services, including psychological, endocrinological and surgical expertise in the field of transgender health care, without being subject to unreasonable requirements; no person should be subjected to gender reassignment procedures without his or her consent.

Concerning point 2. the Commission will continue following actively the work of the World Health Organisation (WHO) towards the depathologisation of transgender identities in the review of the International Classification of Diseases (ICD). The WHO has proposed replacing previously used terms – such as ‘disorder’ – with new concepts, such as gender ‘incongruence’. The fifth edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) released by the American Psychiatric Association replaced the term ‘gender identity disorder’ with ‘gender dysphoria’. In the DSM-5, gender non-conformity is not in itself considered to be a mental disorder.

The European Parliament, in its Resolution of 4 February 2014 on the EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity (see also Lunacek Report), reiterated that:

“The Commission should continue working within the World Health Organisation to withdraw gender identity disorders from the list of mental and behavioural disorders and to ensure a non-pathologising reclassification in the negotiations on the 11th version of the International Classification of Diseases (ICD-11).”

The Commission leads an Expert Group on Social Determinants and Health Inequalities that will be informed on relevant reports, research and developments concerning LGBTI people.

The Commission will carry out a pilot project

that includes a study on health inequalities faced by LGBTI people, especially those in vulnerable situations (isolated communities, elderly and young people, prison settings, people from lower socioeconomic groups, etc.) and the barriers faced by health professionals when providing care. Based on the outcomes training modules have to be developed for health and –if identified as necessary– social care professionals. This training should tackle skills, attitudes and knowledge.

Concerning access to SRS - Sex reassignment surgery, according to the NGO Transgender Europe

, as of 2014, at least 24 EU Member States (including Italy, Netherlands, Spain) required diagnosis of a gender identity disorder in order to access SRS and/or legal recognition of a person's gender.

In the Netherlands, no formal problems with access to SRS have so far been reported. The Netherlands is one of the few countries where adolescents can already get puberty inhibitor (hormone) treatment to prevent them developing secondary sex traits. This makes it easier for them to have a successful SRS when they are 18 or older. When adolescents reverse their decision, they can stop taking inhibitors, after which nature takes its normal course without harm being done.

However, the Free University Medical Centre (VUmc) in Amsterdam, the main centre performing operations on trans people (85%), announced in 2014 that it did not have enough funding to treat new patients. There have been complaints by transsexuals that access to SRS is only possible based on a Gender Identity Disorder diagnosis and thus dependent

on a medic's opinion. Under pressure to make budget cuts, the Dutch government took "cosmetic surgery" out of the minimum standard for health insurance. This has been criticized by the transgender movement, which does not see "cosmetic surgery" after SRS as a luxury but as a necessity.

In Italy, SRS by trans people who are detained or in custody is performed free of charge in public hospitals, if authorized by the judicial authorities. However, in 2011 access to these been carried related therapies was initially denied to a trans person while detained, because the regional administration (responsible for providing health care) and the prison services administration had not agreed on a protocol.

In Spain, the Act on the Civil Registry of 2011

simplified the administrative procedures for changing a person's name (and the order of surnames).

## RECOMMENDATIONS

We report here recommendations based on the Conclusion document issued at the end of the conference on 'Tackling sexual orientation and gender identity discrimination: Next steps in EU and Member State policy making'

, held in October 2014 in Brussels:

Member States should reconsider their legal provisions concerning the procedure of legal gender recognition and base these on the person's self-determination. National legislation should ensure the full legal recognition of a person's preferred gender. This would include enabling changes to the first name, social security number and other gender indicators on identification documents. Civil society representatives pointed out that 13 EU Member States require non-reversible infertility and 9 Member States require the person to be unmarried or to dissolve their marriage before they will legally recognise the new gender.

## Specific issues concerning INTERSEX (or DSD - Disorders of Sex Development)

There is little information on the existence of medical protocols concerning the treatment of intersex people across the EU. In Spain and Italy, no official, general medical protocol is applied.

Sex (re)assignment and sex-related surgery appears to be performed on intersex children, and young people, in at least 21 EU Member States including Italy, the Netherlands and Spain. However, it is not known how frequently such operations are conducted. In all of these countries, the patient and/or legal representative's informed consent is required for surgery, except in medical emergencies.

In Spain, when a medical intervention entails 'a serious risk' for the child consent by the legal representative, independently of the child's ability to decide is required.

Patient consent appears to be legally required in at least 18 Member States including Italy, the Netherlands and Spain provided that the child is deemed to possess adequate cognitive faculties and the ability to decide. In 14 Member States including the Netherlands and Spain, the child is presumed to have such abilities after reaching a certain age.

In Italy, the Committee on Bioethics

published a report in 2010 reinforcing the exclusively medical approach to intersex issues, reinstating sex binary as an "indispensable element of personal identity".

In Spain, the Basque Country Act 14/2012

on non-discrimination based on gender identity includes references to "intersex persons", requiring specific support for them.

Protocols for specific forms of intersex characteristics are followed, including the protocol developed by the Spanish Association of Paediatrics (Asociación Española de Pediatría)

and the protocol of the European Association of Urology

In the Netherlands, if the sex of a child is unclear, the birth certificate can state that the sex could not be determined. Within three months of the date of birth, a new birth certificate should be drawn up and the first one destroyed. In the new birth certificate the sex of the child should be specified based on a medical statement. If no medical statement is submitted or if the sex still cannot be determined, the new birth certificate should indicate that it is not possible to determine the sex of the child. Once an intersex person decides on their sex identity, they can change the registration pursuant to Article 1:24 of the Civil Code; no time limit is set. If birth certificates contain errors it is possible for intersex people to change the sex identifier later in life without meeting the requirements demanded of trans people.

In the Netherlands, it is also common practice to follow ‘the Chicago Consensus’, (<http://www.pediatrics.org/cgi/content/full/118/2/e488>) but this may not apply to all hospitals

. In any case, the issue is not how ‘good’ the treatment becomes, but whether it meets human rights standards when administered without consent even though the ‘condition’ is not life-threatening and will not lead to significant harm.

In the Netherlands a law was approved in 2013

providing that anyone who is 16 years or older can apply to the municipal registry office to have their registered sex altered. The only requirement is an expert statement declaring that the person requesting a change of sex is convinced that he/she belongs to the opposite.

## RECOMMENDATIONS

We report here recommendations included in the report ‘Protection against discrimination on grounds of sexual orientation, gender identity and sex characteristics in the European Union: Comparative legal analysis’ :

Member States need to review their laws and practices that can result in discrimination, and violations to the physical and psychological integrity of intersex people, especially children.

## VII. HOUSING

According to the Recommendation CM/Rec(2010)5 Member states should take appropriate legislative and other measures to ensure that access to adequate housing can be effectively and equally enjoyed by all persons, without discrimination on grounds of sexual orientation or gender identity; such measures should in particular seek to provide protection against discriminatory evictions, and to guarantee equal rights to acquire and retain ownership of land and other property.

And that

Appropriate attention should be paid to the risks of homelessness faced by lesbian, gay, bisexual and transgender persons, including young persons and children who may be particularly vulnerable to social exclusion, including from their own families; in this respect, the relevant social services should be provided on the basis of an objective assessment of the needs of every individual, without discrimination.

## ITALY

At present, there are no initiatives of social housing or aimed at welcoming victims of homophobia in Italy. However, in April 2016, the mayor of the city of Milan announced the forthcoming opening of a home to temporarily host young victims of homophobia. A place where lesbian, gay, bisexual and transexual people that have suffered from verbal and/or physical discriminations and violence, may find a shelter and live for few months.

Then, various local bodies have tried, before the approval of the law on civil unions for homosexual people, to add, in the regulations on social houses assignment, the possibility to

recognize this right also to LGBT couples. This did not achieve successful results since the modifications proposed to the specific regulations did not reach, in most cases, the majority of votes necessary for their approval. In one case (municipality of Empoli) the modification was successfully introduced and it was linked to the Civil Unions Registry that was established by some municipalities before the entry into force of the relevant national law.

## NETHERLANDS

Discrimination on housing is forbidden in the Netherlands and there are no cases of not allowing LGBT people to buy or rent a house or apartment. However, there have been some cases of discrimination because the housing situation was unsafe and housing providers were not taking measures to prevent or correct this.

In the Netherlands the responsibility for the safety of housing and its environment is shared by the provider/owner and by the municipality. In the Netherlands, most rental apartments are provided by social housing associations. In 2014, one such housing association was indicted and had to appear before the Human Rights Institute (Ombudsman). The neighbour of the complainant was constantly name-calling, threatened him and even attacked him in a homophobic way. The Human Rights Institute convicted the housing association because although they initiated talks with the neighbour, they treated this incident as if it were a regular neighbour conflict rather than a homophobic hate incident. (Source: <https://www.mensenrechten.nl/publicaties/oordelen/2014-94>)

Many other incidents of such local intimidation have been reported and keep being reported. It has shown to be difficult to solve such incidents because often the attackers form an anonymous group and individual attackers can often not be indicted, which hinders formal police action. Also, there is a lack of cooperation between the police, the prosecutor, the victims, the community officials, the apartment provider and the municipality. It is especially important to start the incident solving process in the right way, because once the police files a complaint in a certain way, the formal procedure largely dictates a certain legal process, which may not be the best strategy to redress the situation. Several larger cities

have developed procedures to streamline these processes and cooperation is so-called "gay-alert" procedures. The essence of the "gay-alert" procedure is to appoint a case manager who guards the process and keeps the victims informed.

The national expertise centre on well being MOVISIE published a guide sheet on safety in city neighbourhoods ([https://www.movisie.nl/sites/default/files/alfresco\\_files/Handreiking%20homo-emancipatie;%20LHBT's%20en%20veiligheid%20\[MOV-181062-0.3\].pdf](https://www.movisie.nl/sites/default/files/alfresco_files/Handreiking%20homo-emancipatie;%20LHBT's%20en%20veiligheid%20[MOV-181062-0.3].pdf)) and the government supports a national Gay/Straight Alliance "Natuurlijk Samen" ("Living together in a natural way", <http://www.natuurlijksamen.org>) on combating homophobia in neighbourhoods.

Another issue is the unsafe housing situation of young people who are rejected by their parents. They often are thrown out and have to resort to prostitution to survive. Due to social rejection and psychological isolation, such young people often have to deal with a range of other related challenges like honour revenge, street violence, drug and alcohol misuse, gamble addiction, and health problems including STD and HIV infection and not being insured. There are emergency housing solutions for street youth but these shelters are often unsafe for LGBT youth. They may be intimidated, robbed and raped there. Because of this, in several cities there have been attempts to create specific LGBT shelters like there are in Berlin and London. This has been very challenging due to the opposition of Dutch authorities to create services for specific groups. The policy is that mainstream services should be available for everyone who needs them. However in practice many such public services including women safe houses and youth shelters are not safe enough for gays, lesbian, bisexual and transgenders. The only relatively constant shelters up till now are in Amsterdam: "Veilige Haven" (Safe Haven, <http://www.veilighavenamsterdam.nl>) and Secret Garden (<http://www.stichtingsecretgarden.nl/>).

## SPAIN

We have found no mention to housing for LGBT persons in Spanish law. However, a Catalan law (2014/11/20) in its article 17, section 2, states that the administration must promote measures and actions to help adolescents and young LGBTI people which have been

expelled from their families' houses or left them due to maltreatment or situations of psychological pressure.

## VIII. SPORTS

Recommendation 1635 (2003) of the Parliamentary Assembly – Lesbians and gays in sport (Adopted by the Standing Committee, acting on behalf of the Assembly, on 25 November 2003) states that

Sport is a key factor in social integration and the European Sports Charter states that participation in sport should be open to all.

Gays and lesbians complain that they are at a disadvantage when it comes to participation in sports activities both in regular sports organisations and at school.

The Assembly believes that homophobia in sport, both among participants and in their relations with spectators, should be combated on the same grounds as racism and other forms of discrimination.

The Assembly therefore calls on member states to:

- i. launch active campaigns against homophobia in sport and widen existing campaigns against xenophobia in sport to include homophobia;
- ii. include homophobia and abusive language directed at gays and lesbians as grounds for accusation of discrimination and harassment on the basis of sexual orientation;
- iii. make homophobic chanting at or around sports events a criminal offence, as is presently the case with racist chanting;
- iv. involve NGOs from the gay and lesbian community in their sports campaigns and in all other necessary confidence-building steps.

The Assembly also calls on European sports organisations to:

- i. make homophobic chanting and other homophobic abuse an offence against their constitutions, as is already the case for xenophobic and racist chanting and other abuse;
- ii. call upon UEFA to adapt its Ten Point Plan for Professional Football Clubs so as to include action against homophobia;
- iii. adopt or adapt practical guidelines for professional sports clubs to help them fight against all discrimination, including racism, xenophobia, gender discrimination and homophobia; launch active campaigns against homophobia in sport and widen existing campaigns against xenophobia in sport to include homophobia.

In ITALY there are many discussions about the homophobia phenomenon in sport and in the last years many initiatives have been undertaken aimed at contrasting it in a sector which is, generally, strongly influenced by a “macho” culture and that is very relevant at social level (let’s think, for instance, at the importance of football for Italian citizens).

Since many years, some rugby and basket teams have started campaigns against homophobia and they have edited calendars with their athletes as protagonists. The proceeds derived from selling the calendars have been used to finance projects aimed at raising the awareness of private foundations and public bodies.

In the last editions of the calendar, the snapshots did not focus on the athletes only, but they have included ordinary people too: the neighbour, the brother’s friend, the guy who, every evening, walk the dog, that is to say, people who refuse to accept the label that someone else has decided to impose on them and who are happy of being who they are, giving space to life and who commit themselves in every thing they do in their daily life. A message that has soon been disseminated all over Italy, reaching even the Vatican so much so the promoters of the initiative have received, last spring, a message of support and approval also by Pope Francis.

Then, in the world of football, a very relevant initiative that also produced a great impact, is the one undertaken by the Federazione Italiana Giuoco Calcio (FIGC) and the Italy National

football team which, seizing the invitation by the Fondazione Candido Cannavò , have joined the campaign against homophobia promoted by the Paddy Power association.

For a weekend of championship, the players have worn rainbow shoelaces during the competitions and the Paddy Power association has promoted the establishment of a homophobia watchdog in sport in order to foster studies and researches on this issue and disseminate an ethical code, boosting the whole world of sport to join it. At present, there are no news available on the watchdog activities.

## NETHERLANDS

Dutch research shows that the sports domain is not a very positive environment for most sporting LGBT people. Especially team sports with a masculine culture are unsafe and if LGBT are sporting there, they usually keep their identity hidden. Research also shows that LGBT people at average engage in sport less than heterosexual people (especially LGBT young people), and if they do sports they prefer individual sports above team sports

. Also, when LGBT people do team sports, they often prefer to join a LGBT sports club. The Netherlands have a large network of LGBT sports clubs in a range of sports, among which the most popular are swimming, volleyball and ballroom dancing.

Since 2008, the Dutch government has stimulated LGBT emancipation in sport by financially supporting a coalition of mainstream sports associations and LGBT sports clubs. The coalition is called the "Equal Play Alliance" (Alliantie Gelijk Spelen") and consists of Gay Union Through Sports (GUTS, federation of LGBT sports clubs), NOC\*NSF (Dutch sport clubs federation and Olympic committee), Nederlandse Sport Alliantie (NSA, sports advice bureau), John Blankenstein Foundation (foundation to promote LGBT issues in sports and especially in football), COC (national LGBT organization) en MOVISIE (national expertise centre on social work)

The Equal Play Alliance's strategy is mainly one of networking and visibility. The partners inquire and advocate in their own networks to give attention to sexual diversity. The most simple intervention is to wave rainbow flags on one or more of the 3 main LGBT celebration days (IDAHO, 17 May; Gay Pride, last Saturday of June; coming-out day, 11 October) or to wear pink or rainbow shirts during a game. The Alliance also stimulates anti-discrimination protocols in sports clubs, offers training, stimulates presidents of sport associations to make public statements against homophobia and stimulates LGBT sports people to come out.

NOC\*NSF has also published a guideline on how to integrate transgenders in sports

. This guideline gives attention to how to register a trans sports person, how to allocate the transgender sports person to a team, coming-out and communication in the team and club, dressing rooms and showering, how to handle opponents and away games and support during transition. In each guideline the own choice of the trans person is central. The guideline also has a chapter for national sports unions, advising on offering dispensation for and changing sex registration, dealing with coming-out, rules for opponents and away games, dressing rooms, communication and top sports.

## SPAIN

In Spain, the laws of some autonomous communities, such as Extremadura, Galicia or Catalonia, mention the defence of LGBTI persons' rights inside sport world and the need of formation for sport teachers, monitors and professionals of leisure in order to know the reality of LGBTI people and to promote and assure the respect and protection of the collective against any kind of discrimination.

The LGBT sport tradition comes from the clubs Panteres Grogues from Barcelona and Hallegatos from Madrid, that organize tournaments and promote LGBT sport in Spain since 1994. In 2003 Sportiu Samarucs Club from Valencia started working with them.

Since 2012 the Jocs Taronja are organized with football, volleyball and swimming tournaments, as well as synchronized swimming and rugby exhibitions. These competitions are

well-known because of the respect among people with different sexual orientation, identity and options. It's organized by Agrupación Deportiva Ibérica LGBT (<http://adilgbt.blogspot.com.es>).

## IX. RIGHT TO SEEK ASYLUM

The inclusion of gender identity and sexual orientation

in the definition of 'particular social group' under Directive 2011/95/EU (Qualification Directive (recast)) 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 has also resulted in their inclusion as grounds of persecution warranting international protection.

## SITUATION IN THE THREE COUNTRIES INVOLVED IN THE PROJECT

ITALY implements the Qualification Directive (recast) and it included "gender identity" in the laws transposing the new Article 10. The act which transposes the EU Directive is the Legislative Decree n. 18 of 21 February 2014, "Attuazione della direttiva 2011/95/UE recante norme sull'attribuzione, a cittadini di paesi terzi o apolidi, della qualifica di beneficiario di protezione internazionale, su uno status uniforme per i rifugiati o per le persone aventi titolo a beneficiare della protezione sussidiaria, nonché sul contenuto della protezione riconosciuta".

In Italian asylum practice it is not an issue whether or not the criminal sanctions against LGB persons are enforced. In Italy lesbians, gays and bisexual asylum seekers from countries which criminalise sexual orientation are granted refugee status. This practice was confirmed by the Italian Supreme Court: "The circumstance that homosexual acts are criminalised in the country of origin is relevant, because it is a severe interference in homosexual

citizens' private life, threatening personal freedom and creating an objective situation of persecution that would justify the grant of international protection.”

According to the Italian Supreme Court a “criminal penalty for homosexual acts per se constitutes a general situation of deprivation of the fundamental right to live freely one’s sexual and private life. Persons with a homosexual orientation are forced to violate the criminal law (...) and expose themselves to severe penalties (...). This represents a severe interference in the private life of (...) homosexual citizens, greatly compromising their personal freedom. This violation of a fundamental right is set out in the Italian Constitution, in the European Convention on Human Rights and in the Charter of Fundamental Rights of the EU, which is binding in this matter, and it automatically affects the individual situation of homosexual persons, as it places them in a situation of objective persecution.”

Following the Supreme Court’s judgement, the Court of Appeal of Bari added: “the fact that the criminal sanctions against homosexual acts are not enforced, is not relevant. Even the threat of a criminal sanction, which may only become a reality by abandoning the alleged discretionary custom of tolerance, in fact gives rise to a well-founded fear, and constitutes an impairment of the personal freedom of gays.”

S O U R C E :

[http://www.ilga-europe.org/sites/default/files/good\\_practices\\_related\\_to\\_lgbti\\_asylum\\_applicants\\_in\\_europe\\_jul14.pdf](http://www.ilga-europe.org/sites/default/files/good_practices_related_to_lgbti_asylum_applicants_in_europe_jul14.pdf)

Only 13 Member States including the Netherlands

and Spain

treat same-sex spouses of refugees (a rather exceptional status) in the same manner as different-sex spouses.

In the Netherlands, the Aliens Circular specifies that LGB claimants should not be required to hide their sexual orientation in their countries of origin. On 27 June 2009<sup>707</sup> the Aliens Circular was amended to also specify that, when same-sex consensual acts are criminalised in the country of origin, an applicant should not be required to have invoked the protection of the authorities in that country. The Judiciary Division of the Council of State

issued two judgments on 18 December 2013 – regarding asylum seekers from Sierra Leone and Senegal – holding that the State Secretary could not require the asylum seekers to observe a certain restraint in their way of life. Netherlands (2009), Aliens Circular 2000 (Vreemdelingencirculaire 2000), Section C2/2.10.2, as amended in 2009. The 2009 amendment (published in Staatscourant (2009) 115) was made in response to a suggestion of the national LGBT organisation COC Nederland.

The Dutch Council of State considered, in their interpretation of the answers of the CJEU regarding criminalisation, that the asylum authorities must also investigate how the criminal legislation is applied and works out in practice. This investigation should not be restricted to the actual enforcement of imprisonment and other sentences, but should also take into account prior police and judicial investigations, and the effects of criminalisation on the general situation of homosexuals in society. As a general rule, Dutch policy holds that whenever the applicant originates from a country where homosexuality or homosexual acts are criminalised, it is not expected that s/he seeks protection from the authorities against non-state persecution. This policy is also laid down in the country-specific policy guidelines. The Netherlands also has a policy to grant refugee status to Iranian LGBTs, and since recently to Ugandan LGBTs as well.

S O U R C E :

[http://www.ilga-europe.org/sites/default/files/good\\_practices\\_related\\_to\\_lgbti\\_asylum\\_applicants\\_in\\_europe\\_jul14.pdf](http://www.ilga-europe.org/sites/default/files/good_practices_related_to_lgbti_asylum_applicants_in_europe_jul14.pdf)

However, these positive regulations are countered by a number of practical challenges. In the first place, the regulations state that asylum on ground of persecution can only be granted when there is proof of systematic persecution by the State. Many States do not openly state on paper that LGBT people are persecuted on the ground of their sexual orientation or gender identity. Rather, they state that individual arrests were made on the ground of "public lewdness", "acts against nature", "a-social behaviour" or "rape" (consensual sexuality between men is often seen as impossible). In the second place, LGBT refugees are often feeling from family honour revenge or hate in the community, which does not count as "systematic State persecution"). Third, the majority of the LGBT refugees does not dare to admit they are LGBT to an uniformed immigration officer after they have been mistreated,

robbed, beaten and raped by uniformed forces in their own country. Still, the Dutch immigration police (IND) requires the reason for asking asylum to be made clear in the first conversation. When the asylum seeker changes their story during the procedure, they will be deemed opportunistic and their chance to get asylum diminishes considerably. Fourth, in the asylum centres, the refugees are lodged together, often with fellow countrymen. This creates unsafe and dangerous situations for LGBT in the refugees centres (and currently the additional refugee camps). The refugee camp authorities and staff (COA) often do not know how to deal with this or don't have the staff to monitor or secure safety at all times. COA has been initiating training of staff on LGBT issues in the last few years, training all staff takes time and the pace does not keep up in the current Syrian refugee crisis. The government officially forbids offering separate safe housing in the context of the general "no specific services" policy. This results in regular name-calling, intimidation, soiling and destruction of the LGBT refugee property, beatings and rape. Local LGBT associations try to help and host LGBT refugees for weekends to escape and sometimes longer the stress and violence. In some larger cities, the COA has allocated more or less separate housing (a different set of rooms in the building) for LGBT refugees despite the government guideline.

SPAIN did not transpose the Qualification Directive (recast) by 21 December 2013; it required persons seeking asylum on grounds of sexual orientation or gender identity to show that they were subject to legal sanctions.

## RECOMMENDATIONS

According to FRA opinion EU Member States should treat persecution on the ground of gender identity as a reason for granting international protection.

We also report here recommendations by the authors of the report "Fleeing Homophobia":

In the light of Article 3 of Regulation 439/2010 establishing a European Asylum Support Office, the Office should give priority to promoting and coordinating the identification and pro-

ling of good practices regarding the examination of applications of lesbian, gay, bisexual, trans and intersex asylum applicants.

## Criminalisation

- Article 4(3)(a) Qualification Directive should be applied in such a way that it leads to refugee status for lesbian, gay, bisexual, trans and intersex applicants originating from countries where sexual orientation or gender identity are criminalised, or where general provisions of criminal law are used in order to prosecute people on account of their sexual orientation or gender identity.

- Countries of origin which criminalise sexual orientation or gender identity cannot be considered as 'safe countries of origin' for lesbian, gay, bisexual, trans and intersex applicants.

## State Protection against non-State Persecution

- Article 7 of the Qualification Directive should be applied in such a way that lesbian, gay, bisexual, trans and intersex applicants are only required to turn to the authorities for protection, if it has been established that effective protection of a non-temporary nature would generally be available for lesbian, gay, bisexual, trans and intersex people in that country. Article 7 of the Qualification Directive should be applied in such a way that, when sexual orientation or gender identity is criminalised in the country of origin, lesbian, gay, bisexual, trans or intersex applicants are not required to invoke the protection of the authorities.

## Internal Protection

- Article 8 of the Qualification Directive should be applied in such a way that internal protection is deemed unavailable in cases of lesbian, gay, bisexual, trans and intersex applicants from countries which criminalise sexual orientation or gender identity. In all other cases, the decision-making authorities should make a careful assessment of the situation of lesbian, gay, bisexual, trans and intersex people in the proposed internal protection area, including whether it is possible to live openly as lesbian, gay, bisexual, trans or intersex persons there and whether effective state protection is available for them.

- Applicants should not be required or presumed to hide their sexual orientation or gender identity in the internal protection area in order to be protected against persecution.

## Credibility

• As a general principle, establishing sexual orientation or gender identity should be based on self-identification of the applicant. Medical and psychiatric expert opinions are an inadequate and inappropriate method for establishing an applicant's sexual orientation or gender identity.

• Interviewers, decision makers, the judiciary and legal aid providers need to be competent and capable of taking into account the sexual orientation and gender identity aspects of asylum applications, including the process of 'coming-out' and the special needs of lesbian, gay, bisexual, trans and intersex applicants. To this end, they should be professionally trained, both in a specific basic training module and during general permanent education modules. The fact that an applicant lacks familiarity with lesbian, gay, bisexual, trans and intersex organisations or venues cannot in itself be considered as an indication that the applicant's purported fear of being persecuted on account of sexual orientation or gender identity is not credible.

Article 7 of the Qualification Directive should be applied in such a way that when potential actors of protection are likely to be homophobic/transphobic, lesbian, gay, bisexual, trans or intersex applicants are not required to have invoked the protection of the authorities.

## The Discretion Requirement

The well-founded fear element of the refugee definition should be applied in such a way that lesbian, gay, bisexual, trans and intersex applicants are not required or presumed to hide their sexual orientation or gender identity upon return to the country of origin in order to avoid persecution.

the Article 7 of the Qualification Directive should be applied in such a way that when potential actors of protection are likely to be homophobic/transphobic, LGBTI applicants are not required to have invoked the protection of the authorities.

The fact that an applicant is or has been married or cohabiting in a heterosexual relationship, possibly with children of that relationship, should not in any way rule out the fact that he or she may be lesbian, gay, bisexual, trans or intersex. information as to the position of lesbian, gay, bisexual, trans and intersex people, in particular:

During the personal interview in the meaning of Article 12 Procedures Directive, lesbian, gay, bisexual, trans and intersex applicants should be given the opportunity to describe how

their sexual orientation or gender identity has developed, including responses of the environment; experiences with problems, harrassment, violence; and feelings of difference, stigma, fear and shame.

- homophobia and transphobia in government institutions and agencies such as the police, prisons, education
- the occurrence of state and non-state persecution
- homo- and transphobia in daily life (on the street, the workplace, schools, housing)
- – the willingness and ability of the authorities to provide effective protection against homophobic and transphobic violence, and whether lesbian, gay, bisexual, trans and intersex people have access to such protection

## L a t e D i s c l o s u r e

Reasons for late disclosure should be considered carefully with due attention to the relevant factors adduced by applicants.

The notion of “new elements” in Article 32(3) Procedures Directive should not be interpreted in a highly procedural way but, on the contrary, in a protection-oriented manner. In this way, an unduly inflexible application of the res judicata principle can be avoided.

A negative credibility finding cannot be based solely on the belated disclosure of the sexual orientation or gender identity.

## C o u n t r y o f O r i g i n I n f o r m a t i o n

In the light of Article 4(3)(a) Qualification Directive, for all countries of origin, information pertinent to lesbian, gay, bisexual, trans and intersex applicants must be gathered and disseminated.

Country of origin information must be based on reports of human rights organisations, UN agencies, complemented by information from Member State diplomatic posts, as well as local lesbian, gay, bisexual, trans and intersex organisations - where these exist. This information should be supplemented by alternative forms of information, such as the testimonies of other lesbian, gay, bisexual, trans and intersex people similarly situated in written reports or oral testimony, of non-governmental or international organisations or other independent research.

In the light of Article 4(3)(a) Qualification Directive, country of origin information should include information about direct and indirect criminalisation of sexual orientation or gender identity.

In the light of Article 4(3)(a) Qualification Directive, country of origin information should include precise and up-to-date

– – the availability of effective state protection in different parts of the country, with a view to the possibility of internal protection.

Country of origin information should be specific about the situation of lesbians, gays, bisexual women and men, trans (including trans women and men and transvestites) and intersex people.

Appropriate use of available country of origin information

As long as little or no reliable country of origin information is available on the human rights situation of lesbians, gays, bisexuals, trans or intersex people, this should not be considered

per se as a sign that human rights violations against these groups do not occur. Decision makers and the judiciary should keep in mind that homophobic and transphobic violence may be under-reported in certain countries. The principle of the benefit of the doubt is of particular importance in such situations.

Scarcity of information about enforcement of the criminalisation of sexual orientation or gender identity should not be taken as an indication that enforcement does not take place.

When relying on country of origin information pertinent to lesbian, gay, bisexual, trans or intersex applicants, information about one subgroup should not automatically be presumed to be applicable to the other subgroups as well, unless there are good reasons to make this presumption. At the same time, the absence of information on one subgroup should not be understood as evidence that there is no risk for the members of other subgroups.

Considering countries where gay sexual orientation is criminalised, while lesbian, bisexual, trans and intersex persons are not mentioned explicitly in criminal law, it should be assumed that lesbian, bisexual, trans and intersex persons also risk persecution, until it has been established that this is not the case.

Considering countries where sexual orientation is criminalised, while gender identity is not mentioned explicitly in criminal law, it should be assumed that trans and intersex people risk persecution too, until it has been established that this is not the case.

## Reception

- Reception authorities in Member States should pay particular attention to the special needs of lesbian, gay, bisexual, trans and intersex asylum seekers in reception, accommodation and detention centres, and should develop appropriate procedures, guidelines and training modules in order to address their special needs.

Since many homophobic and transphobic incidents are reported in reception, accommodation and detention centres, relevant special needs relating to sexual orientation and gender identity should be explicitly addressed in the drafting of a new Reception Directive, while prevention and protection from homophobic and transphobic assaults should be ensured in reception centres.

Member States must put in place proper and effective complaint systems for dealing with harassment and violence against lesbian, gay, bisexual, trans and intersex applicants in reception, accommodation and detention centres.

- Lesbian, gay, bisexual, trans and intersex applicants must be given the possibility of moving to a single room or to another accommodation if they are facing harassment or violence in the original location; or the perpetrators must be transferred to another accommodation.

- Member States should facilitate lesbian, gay, bisexual, trans and intersex organisations to work in reception, accommodation and detention centres.

## X. NATIONAL HUMAN RIGHTS STRUCTURES

Italy

and the Netherlands

have specific strategies for LGBT people.

The Netherlands is the only Member State that has periodically issued policy papers on “homosexual emancipation policy” since 1986, with more specific attention gradually paid to trans persons issues. Recognising the particular concerns of trans people, the English Equalities Office prepared a general plan regarding LGBT issues and a separate plan entirely dedicated to trans persons issues.

In Italy, there are equality bodies which established cooperative efforts with LGBT NGOs, developing various projects aimed at raising awareness of equality principles.

For instance, the National Office against Racial Discrimination (UNAR) promoted in 2010 and 2011 two projects called 'Diversity as a value' (Diversità come valore), together with a national working group, which included LGBT NGOs.

#### Regional Coordination Center Against Discrimination Puglia Region

It's a point of reference on the territory in prevention and fight of all forms of discrimination.

The center works in cooperation with public institutions and third sector organizations and it is supported by UNAR (National Office Against Racial Discrimination) that provides the analytical and operational tools to support the establishment of a network of anti-discrimination centers on the territory able to ensure a widespread action, homogeneity in information quality, arbitration services and legal assistance.

In Spain, no equality body deals expressly with the protection of equal treatment and combating discrimination on the grounds of sexual orientation or gender identity. These functions correspond to the Ombudsperson at the state level, created by the Organic Act on the Ombudsperson (Ley Orgánica del Defensor del Pueblo), No. 3, 6 April 1981, and to the Ombudspersons of each of the Autonomous Communities, whose competences are to protect the rights and freedoms set out in Art. 14 of the Constitution, which prohibits any form of discrimination. Their task is to supervise the activity of the public administrations. They can carry out any investigations they consider necessary, informing parliament of the

results. They do not themselves decide on possible sanctions in cases they investigate, but can make suggestions in this regard.

At the EU level, the EC has established the High Level Group on Non-discrimination, Equality and Diversity, which brings together representatives from all EU 28 Member States and it is responsible for equality issues twice per year

. Through this platform, the Commission will facilitate voluntary commitments from Member States by providing peer learning possibilities and regular good practice exchanges focused on public policies combatting LGBTI discrimination, which will involve experts in the field from civil society and/or other relevant organisations depending on the topic. This group supports the work of each Council Presidency in the area of Equality.

Topics identified for exchange of good practices include: transgender legislation/legal gender recognition, the development of efficient national action plans, and the use of the European Social Fund to support full social inclusion of LGBTI people, particularly at the labour market.

## RECOMMENDATIONS

According to FRA opinion this body could serve as the centre point for the coordination of future activities at EU level that should be based on a synergetic approach that mobilises legislative, financial and policy coordination tools. Furthermore, a mutually agreed action plan on LGBTI issues of the high-level group would help streamline the work and build a shared sense of commitment among the EU and national levels.

## XI. DISCRIMINATION ON MULTIPLE GROUNDS

According to the Recommendation CM/Rec(2010)5 Member states are encouraged to take measures to ensure that legal provisions in national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity; national human rights structures should have a broad mandate to enable them to tackle such issues.

## SITUATION IN THE COUNTRIES INVOLVED IN THE PROJECT

SPAIN has implemented a good practice regarding data collection on discrimination starting from 2013

. The project, developed by the Ministry of Health, Social Services and Equality (Ministerio de Sanidad, Servicios Sociales e Igualdad), involved creating the Discrimination Map (Mapa de la Discriminación). Among other things, the map aimed to address the lack of official statistics and systematic and comprehensive studies on discrimination. The first step involved analysing available data sources to understand perceptions of both society and potential discrimination victims, with the goal of promoting better anti-discrimination policies in Spain. The project covered many grounds of discrimination, including sexual orientation, gender identity and multiple discrimination.

THE NETHERLANDS have not been active on tackling multiple discrimination. During the process before the 2014 revision of the Equal Rights Act (AWGB), which was prompted by criticism of the European Union, the Human Rights Institute (then called Equal Treatment Commission) recommended in 2011 to the government to research how the multiple discrimination could be integrated in the Equal Rights Act. The Human Rights Institute distinguished two types of multiple discrimination: one where a distinction between separate discrimination grounds still can be made ("samenloop" or "going together", and one where this distinction is almost impossible to make ("interferentie" or "interference"). The stereotypes in Dutch society about young Antillean men is an example of interference. In interferential multiple discrimination, it is difficult to establish a legal case. The government rejected the Human Rights Institute proposal because it believed such a change in the law would not offer more legal protection than already is secured in the current law. The government

supports this with research on the implementation of the Equal Rights Act which concluded that the law functioned adequately. However the government admits that more research into multiple discrimination could be useful. (Source: letter of the government to the parliament, 24-10-2011; <https://zoek.officielebekendmakingen.nl/kst-28481-16.html>)

## FINAL CONSIDERATIONS

According to the Conclusion document issued at the end of the conference on ‘Tackling sexual orientation and gender identity discrimination: Next steps in EU and Member State policy making’

, held in October 2014 in Brussels, legislation in itself is not sufficient to bring about positive change. Effective implementation of the legislative framework needs to be complemented with comprehensive policy frameworks, awareness raising campaigns addressing prejudices and encouraging change in social practices. To this end the European Commission will develop a comprehensive Action plan to promote equality of LGBTI persons across the EU. To achieve this goal, Commission representatives stressed the need to work closely with the EU Member States in drafting such an Action Plan, so that EU efforts are rooted in Member States ownership of the process, including national, regional and local initiatives.

Then, the Commission envisages a Communication campaign to improve the social acceptance of LGBTI people including specific actions aiming at :

- a) improving the social acceptance of LGBTI persons and making societies more open and inclusive throughout Europe ;
- b) combatting the negative stereotypes that LGBTI persons endure, and which result in discrimination;

c) raising awareness about the rights of LGBTI persons. Special focus areas will include homophobia in sports, young LGBTI, bullying at schools and transgender and intersex people.

The campaign will be rolled out in cooperation with Member States and civil society at national level and will take into account the specific national needs and circumstances. Cooperation and coordination will also be reinforced with international organisations in order to avoid duplication.

Furthermore, the Commission will also continue supporting the work of EU level civil society organisations defending and advocating LGBTI rights. Action grants for specific projects addressing discrimination on the grounds of sexual orientation, gender identity or sex characteristics (intersex) will also continue to be a funding priority.

The European Social Fund dedicates in the current period (2014-2020) at least 20 % to social inclusion and combatting discrimination so that disadvantaged groups (including LGBTI) will get more support to have equal opportunities in comparison to others on the labour market.

Support to projects related to equity, diversity and anti-discrimination (including of LGBTI) within education and training are funded as part of the Erasmus + programme covering education, training and youth.

For the implementation of the actions summarized above the Commission will continue cooperating with the EU Fundamental Rights Agency, EIGE and other relevant EU agencies, as well as civil society and relevant international organisations including the Council of Europe, the OECD and the UN.

Concerning collection of equality data by Member States, a study will be published in 2016. The study will map existing legal framework and practices within the European Union, update the European Handbook on Equality Data

and produce a comparative review of Member States' equality data collection practices.

Finally, we conclude this section of the Toolkit with the declaration by Vera Jourová Commissioner for Justice, Consumers and Gender Equality: “The 2015 Eurobarometer on discrimination shows that almost 60 % of EU citizens see discrimination based on sexual orientation and gender identity as widespread. The figures on the lack of social acceptance of this group are alarming. At the same time, 71 % of respondents support equal rights for LGBT people. These figures should be a wake-up call for governments. No one will lose out if LGBTI people get the rights that everyone else can already enjoy. I am committed to defending and promoting the values of equality, tolerance and respect for each other, values on which the European Union is founded.”

a.

Implementation of gender equal opportunities

ITALY

Here follows a short analysis of national and regional laws regarding the IMPLEMENTATION OF GENDER EQUAL OPPORTUNITIES

Introduction

In the last fifteen years the Italian legislation on equal opportunities and work inclusion has been mainly focused on strengthening the interventions towards inclusion/reintegration and continuity at work of women, by means of various actions supporting this objective.

More specifically, the actions have been addressed at the following two objectives:

Actions supporting the inclusion of women in the labour market;

Actions supporting the dissemination of systemic actions (diffusion of children's educational services, investments for accessing to services, awareness raising and information on the use of parental leave both for fathers and mothers) aimed at strengthening reconciliation of work and family life and at the redistribution of family care tasks between women and men.

These legislative interventions supported, from the one side, the possibility for women to start a professional path, and from the other promoted a cultural evolution in the consideration of woman in the family and of her role as a worker.

More specifically, modern legislation on equal opportunities is anticipated, in Italy, by the Articles 3, 37, 51 and 117 of the Constitution. Then, principles of equal opportunities defined in the European legislation have been transposed in Italy with the Legislative Decree n. 215/2003, the Legislative Decree n. 216/2003 and the Law n. 67/2006.

The Legislative Decree n° 198 (O.J. 31/05/2006) of 11/04/2006 is known as "Codice delle pari opportunità tra uomo e donna" (Code of equal opportunities between man and woman). This provision lays down the basis for rearranging other laws on equal opportunities and it states :

- the ban of discrimination between men and women;
- the establishment of the Commission for equal opportunities between man and woman, defining its functions, duration and composition;

- the establishment of the national committee for the implementation of equal treatment and equal opportunities between male and female workers, defining also its tasks, and functioning;
- the establishment of the College to instruct the actions to identify and remove discriminants, defining also its tasks, and functioning;
- activities of the committee for female entrepreneurship.

The Decree identifies various forms of discrimination and it bans any kind of discrimination in:

- accessing to job;
- remuneration;
- work performances and carrier;
- accessing to social security services;
- accessing to jobs in public administrations;
- enrollment in the army and in special bodies
- enrollment in the army and in the finance police;
- military carriers.

It also identifies specific forms of funding.

The Legislative Decree n° 5 of 25/10/2010 (O.J. n° 29 of 5/02/2010) modifies the Legislative Decree n. 198/06 "Codice delle pari opportunità" (Code of equal opportunities)" and it strengthens the principle of equal treatment and opportunities between women and men and it provides for stronger punishments in the case of violation of such principles.

The Law n. 183 of 4 November 2010 "Deleghe al Governo in materia di lavori usuranti, di riorganizzazione di enti, di congedi, aspettative e permessi, di ammortizzatori sociali, di ser-

vizi per l'impiego, di incentivi all'occupazione, di apprendistato, di occupazione femminile, nonché misure contro il lavoro sommerso e disposizioni in tema di lavoro pubblico e di controversie di lavoro” (Proxies to the Government concerning physically demanding jobs, reorganization of bodies, parental leaves, time off work and permits, social security cushions, employment services, supports to occupation/employment, apprenticeship, female employment as well as measures against black market labour and provisions for public employment and controversies on the job) also intervenes on the norms ruling female employment.

As far as female employment is concerned, the Law delegates the Government to :

- provide for incentives and tax exemption to facilitate the choice of flexible working time for women “depending on the needs to reconcile work with family life”, thus favoring the increase of women employment;
- review the current legislation on parental leave, by increasing their time duration and the economic benefits connected, to encourage women to use this benefit more often
- strengthen care services addressed to children and non-autonomous elderly people, to put really into practice the freedom of choice for women in employment

More specifically, it stresses the need to strengthen the guarantees ensuring real equality in treatment of women and men in employment. The same law provides for the implementation of data survey and processing systems able to unveil and measure gender discriminations also in remuneration.

## SHORT ANALYSIS OF THE NATIONAL LEGISLATION

### INITIATIVES FOR CONCILIATION : Law 53/2000 - Article 9

Since 2000, the Article 9 of the Law 53/2000 has been modified many times. The device allowing the implementation of initiatives aimed at creating and improving the opportunities to conciliate life and work , has an experimental nature and it has been adopted with the intention of achieving the best possible results, by identifying the reconciliation needs that are unavoidably evolving and changing according to time, space and the relevant so-

cial and economic context. The Article 9 is taken in high consideration since it has codified reconciliation measures for both employees and self-employed workers who also take care of minor children, disabled people, non-autonomous people or seriously ill people and since it has provided for a specific fund to implement projects aimed at putting these initiatives into practice.

The fund to encourage the adoption of conciliation measures is aimed at supporting

- complex projects aimed at allowing workers who are mothers or fathers (also in the case of adoption and/or foster care) to benefit from particular forms of flexibility in working time and in the work organization. These include: reversible part time, work from home, flexible entrance/exit time, bank of hours, flexibility in shifts, compressed work schedule, giving the priority to parents with children younger than 8 and in the case of foster care and/or adoption, up to 12 years of age of the child; training programmes to reintegrate workers after the end of the parental leave; projects allowing the substitution of the company owner or of the self – employed worker who are benefiting from a period of compulsory abstention from work under the form of parental leave, by availing oneself of another entrepreneur or self-employed worker to substitute for them; innovative services to satisfy specific needs of the employees that can be realized also by various subjects joined in a consortium/network, promoting the development of territorial networks to widen the beneficiaries of a given service, thus reducing its cost and making it as close as possible to the needs of the final beneficiaries/users .

- Legislative Decree n. 196 of 23 May 2000, "Disciplina dell'attività delle consigliere e dei consiglieri di parità e disposizioni in materia di azioni positive" (Regulation of the activities of equality councilors and provisions concerning positive actions), based on the Article 47 of the Law n. 144 of 17 May 1999,"

The Decree establishes the role of the equality councilors at national, regional and provincial level. Furthermore, it establishes the National Network of Equality Councilors, in order to strengthen the councilors' functions, increase the effectiveness of their action , allow the exchange of information, experience and good practices . This body , coordinated by the National Equality Councilor , meets twice a year and has the authority to promote programs and projects aimed at achieving the general objectives of the law.

The National Councilor is a member of the National equality Committee for implementation of the principles of equal treatment and equality of opportunity for men and women at work (Article 5 of Law n.125 / 91 ) and of the investigation College (Article 7 Law no . 125/ 91 ) .

Regional and Provincial Councilors participate in local partnership tables and in the Monitoring Committees provided for in Regulation (EC ) n.1260 / 99 of 21 June 1999. They are also components of the equality commissions of the corresponding territorial level or of bodies otherwise referred to as performing similar functions .

In performing their duties, the Equality Councilors are public officials and they have the obligation to report to judicial authorities for the crimes of which they are aware .

The Equality Councilors carry out tasks related to promotion and monitoring of the implementation of the principles of equality of opportunity and non-discrimination for men and women at work (Article 1 Decree No. 196 /2000 ) by :

- the promotion of positive action projects ;
- supporting active labor market policies , including training ;
- promotion by public and private entities of equal opportunity policies in the labor market ;
- the connection and collaboration with departments of labour and equality bodies of local authorities;

- supervising compliance with the principle of non -discrimination between men and women in the public and private work , and the detection of violations of the legislation on equality and equal opportunities;
- the identification of effective procedures for the removal of discrimination and gender imbalances in the workplace ;
- the eventual promotion and support of (Individual and collective)actions in court when discrimination based on sex is detected;
- participation in the activities of the National Network (established under article 4 of the Legislative Decree n. 196 /2000) .

## 2001 Law to protect Motherhood and Fatherhood: mother and father parental leaves

Maternity leave (before and after birth) protects the health and wellness of the mother and of the baby. It provides also for the possibility of making the maternity leave flexible, allowing to postpone the abstention period up to one month before delivery, upon medical certification that guarantees the possibility to go on with the work activity with no risk for the pregnant woman.

With the approval of the Law to protect Motherhood and fatherhood (Legislative Decree n. 151 of 2001), all the following aspects have been disciplined: parental leaves, other types of leaves, days off, permits, protection of female and male works connected to maternity and fatherhood of natural, adopted children or in custody, as well as the economic support to maternity and fatherhood. It is a legislative intervention aimed at harmonizing the previous norms, inspired to the need of reaffirming the role of family in society, with new approaches. More specifically, the role of fathers is strengthened in terms of recognition of parental leave to take care of children and for workers who are mothers, protection measures are provided. Furthermore, the legislation provides for tools to support families who adopt or take children in custody.

## 2001: Rights of parents of disabled children

To satisfy the needs of working parents connected to disabled children care, the Italian legislation (Legislative Decree n. 151/2001 and following modifications introduced by the Legislative Decree n. 119/2011) provides for various forms of protection that allow to assist and take care also of disabled relatives. These include reconciliation measures, varying according to the age of the child to be assisted such as: hourly leaves, prolongation of parental leave, paid biannual leave.

- Hourly leaves: from the first to the third year of the child the parents can benefit from leaves of 2 hours per day (in the case of daily work time longer than 6 hours ). Those who take care of home and family works, self-employed and parasubordinate workers are excluded from this protection measure.

- prolongation of the parental leave: including the “ordinary” parental leave, it can last up to 36 months in all. Both parents can benefit from it, in a continuous or intermittent way, within the first 8 years of the child.

- paid biannual leave: regardless of the age of the disabled child, this form of leave can last up to 2 years and the parents can benefit from it alternatively. In the case the children with serious handicaps are two, this requisite of alternation does not apply and both the father and the mother are entitled to 2 years of leave for one of the children and they could be absent from work at the same time. On the other hand, it is not permitted that while one of the parents is benefiting from this form of leave, the other can benefit from other forms of protection such as the monthly leaves, the prolongation of the parental leave or the hourly leaves.

During the decade between 2001 and 2010 , various legislative decrees were issued at national level and then implemented at regional level, aimed at providing the public administrations of actions able to monitor and detect the conditions of implementation of policies favoring the equality between men and women .

This process of attention has gradually led to facilitate the transition from a politics on equal opportunities to a gender policy, able to support actions favoring gender needs, not only at work, but also at the social and cultural level.

Major regulatory actions are the following

1. Legislative Decree n. 145 of 30 May 2005 "Attuazione della direttiva 2002/73/CE in materia di parità di trattamento tra gli uomini e le donne, per quanto riguarda l'accesso al lavoro, alla formazione e alla promozione professionale e le condizioni di lavoro" (Implementation of the Directive 2002/73/CE on equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions)

2. Legislative Decree n. 198 of 11 April 2006 "Codice delle pari opportunità tra uomo e donna, a norma dell'articolo 6 della legge 28 novembre 2005, n. 246" (Code of equal opportunities for men and women according to the Article 6 of the Law n. 246 of 28 November 2005)

3. Directive 23 May 2007 on "misure per attuare parità e pari opportunità tra uomini e donne nelle amministrazioni pubbliche" (measures to implement equality and equal opportunities for men and women in public administrations)

Legislative Decree, n.5 of 25 January 2010 "Attuazione della Direttiva 2006/54/CE relativa al principio delle pari opportunità e della parità di trattamento fra uomini e donne in materia di occupazione e lavoro (rifusione)" (implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast))

The Legislative Decree n. 5/2010, published on the Official Journal of 5 February 2010 transposes the Directive 2006/54/CE on the implementation of the principle of "equal opportunities and equal treatment of men and women in matters of employment and occupation". It aims at avoiding unequal treatment between men and women in matters of employment and eradicating any forms of inequality and discrimination at work.

The Decree prohibits any discrimination based on sex, pregnancy, maternity and fatherhood, also in the case of adoption or foster care. Access to work is guaranteed, as well as equal economic treatment for the same tasks and vertical career mobility. Among discriminating factors, the Decree includes disfavoring treatments suffered by those who have refused unwanted behaviors or sexual harassments expressed either physically, verbally or non-verbally and which violate the dignity of workers and create an intimidating and offensive environment. Also the so called "indirect" discriminations are punishable according to this Decree, that is, those provoked by norms, praxis, behaviors which are apparently neutral but that put or can put the workers of a given sex in a disadvantaged positions compared to the workers of the opposite sex.

Furthermore, it intervenes on the so called "gender pay gap" banning any discrimination both direct and indirect concerning payment, punishing the employers who discriminate female workers with a fine between EUR 250 and EUR 1.500, stating that, if the employer does not comply with the sentence establishing that the discrimination was committed, he/she shall pay a fine up to EUR 50.000 or be imprisoned for up to six months.

As far as accessing to social security services is concerned, it is recognized to female workers the right to extend the job contract up to the same age limits provided for men. Furthermore, the possibility for associations and trade unions representing the damaged right or interest, to testify in court is provided and legal protection is recognized not only to victims but also to those who pay for having protected a person who suffered from discriminations. Finally, equality bodies are strengthened.

Law n.92 of 28 June 2012 "Norms on the reformation of the labour market in a perspective of growth", (Article 4, paragraphs 24-26) – has introduced for fathers who are employed, one day of compulsory fatherhood leave and two days of optional leave. The latter are alternative to the compulsory maternity leave. The leave shall be used within the first 5 months of the baby and it entitles to a benefit amounting at the 100% of the salary. The law has recognized to mothers who work, for the eleven months following to the maternity leave, the possibility to benefit from vouchers to buy baby-sitting services or childcare ser-

vices. This possibility is also recognized within the limits of the resources allocated and alternatively to the parental leave.

The new norms have been implemented by the Ministerial Decree of 22 December 2012.

On the matter regarding maternity and parental leaves, the so called decreto “salva-infrazioni” (Decree to avoid infractions) has been introduced at the end of the year 2012 (Article 3 L.D. n. 216/2012), whose contents have then been incorporated into the Stability Law 2013 (L. 228/2012, Article. 1, paragraphs 336-339).

The new regulations:

- extend maternity benefit and parental leave recognized to self-employed women to self-employed fisher women;
- assign the task to define the modalities to benefit from hourly parental leaves to collective bargaining;
- state that the worker and the employer shall agree, when needed, upon proper measures to restart the work activities at the end of parental leaves.

Finally, equality bodies are assigned the task to exchange available information to corresponding European bodies.

Furthermore, transposition of European regulations on equal treatment of men and women have proceeded and specific measures to support parenthood have been adopted.

In order to fully implement gender equality that is grounded in the Articles 3 and 51 of the Constitution, during the XVI legislature two important laws were approved:

**EQUALITY IN POLITICS:** the law n. 120/2011, that assigns, to the less represented gender, at least one third of the members of the board of directors of publicly listed companies and public companies and the Law n. 215/2012, aimed at re balancing gender representation in local administrations and that modifies, among others, the electoral system of municipalities by introducing the so-called double gender preference.

Equal access to publicly listed companies: the Parliament has approved the law n. 120/2011 which provides for rules disciplining equal access to board of directors and overseeing bodies in publicly listed companies in regulated markets. The new law is aimed at overcoming the problem of lack of representation of women in steering boards of companies and particularly in the board of director of publicly listed companies. With this purpose, a legislative “double track” is provided: for companies not controlled by public administrations the norms on gender equality are based on primary provisions. These provisions apply also to companies controlled by public administrations. In particular, it is stated that the statutes must ensure that the identification of candidate directors to be elected shall be based on a criteria that ensures gender balance, having the less represented gender to get at least one third of the directors elected. For further details please refer to the theme Equal access to the bodies of publicly listed companies.

The rebus of maternity for self-employed women and uncharacteristic female workers

Legal provisions on protections for self-employed women and uncharacteristic female workers have gone through modifications since 2001 when the Legislative Decree n. 151 of 2001 was approved, even if there are still differences compared to female employees.

From the 7th of November 2007, new norms entered into force for parasubordinate workers, with the recognition of the obligation to leave the job due to maternity during the same period provided for female employees. Furthermore, mothers who work under short term contracts, 3 months of parental leave are allowed for the first year of the baby. Also in the case of multiple birth, this right is recognized for each baby (Circular 137/2007 by INPS – Italian National Social Security Institute)

For self-employed female workers (crafts women, retailers, female farmers, female home-steaders and sharecroppers and professional agricultural entrepreneurs) protections increase. They receive a maternity benefit even without obligation of abstention from work, for the first 2 months before delivery and for the following three months. Furthermore, three months of parental leave are recognized within the first year of life of the baby in the case of actual/real suspension of the professional activity. This benefit is recognized in the case specific requirements concerning payment of security charges are met.

Parental leave is recognized to foster care and adoptive mothers who are self-employed for max 3 months for each minor adopted or in custody up to the age of 12 of the child within the first 3 years of arrival in the family and not beyond the 15th year of the child.

Necessary condition to benefit from this form of protection is that one shall not be working and thus she is not in the conditions to start-up her own business (Circular Inps n. 62 del 29.04.2010).

Self-employed women are not entitled to breast-feeding break (crafts women, retailers, female farmers, female homesteaders and sharecroppers and professional agricultural entrepreneurs) and those who work at home as cleaning ladies and caregivers.

## REGIONAL LAWS ON EQUAL OPPORTUNITIES

The regulatory system of the Puglia Region, in recent years has represented a regional normative base that establishes a series of actions in favor of gender policies and women's access to the labor market, support measures for enterprises, to favor of conciliation, experimental programs aimed at creating new integrated models supporting men's and women's well-being. An important note deserve the laws aimed at contrasting gender violence and the establishment of funds dedicated to the support for women victims of violence

The following actions are intended to establish forms of collaboration between several institutions, but particularly to concentrate economic and institutional resources and, at the same time, through specific budget, it establishes and disseminate positive actions for the reconciliation of work-life, helping thereby to create a system of services and support actions able to contribute to keep forms of gender equality in the labour market.

Regional Law 21 March 2007 n.7 "Norme per le politiche di genere e i servizi di conciliazione vita-lavoro in Puglia" (Norms on gender policies and reconciliation of work and family life).

## MAIN CONTENTS AND IMPLEMENTATION STATUS of the Regional Law 21 March 2007 n.7

### For gender governance

#### a) establishment of the Gender Guarantor Office

The office is in charge of integrating the gender dimension and offer an evaluation of the general programmes and acts with reference to the application of equal opportunities principles and the gender dimension in all the main regional acts.

b) establishment of the Resource Center for women with the aim of including gender policies in the local development strategies in order to ensure economic and social cohesion and a balanced growth on EU territories. Its main task is to link all gender institutions that work on the regional territory to strengthen the network and communications.

c) establishment of the inter-councilor Coordination Group to favor the integration of gender policies in the regional development policies.

d) establishment of the permanent partnership table on work and private life conciliation as place to allow the Exchange between representatives of trade unions, sectorial associations and employers' associations, regional equality institutions, associations of local autonomous bodies and of the third sector in order to encourage agreements on the application of legal provisions.

### For the on work and private life conciliation

Conciliation of life and work and harmonization of city times. Art . 28 Regional Law 10 July 2006 n . 19 Plans of the Times and Spaces: For the preparation of feasibility studies by Ambiti Territoriali.

There are 28 Ambiti which participated in the Public Call and which are already working to redesign the use of time and space in a perspective of work-life balance .

Gender social pacts: thanks to the regional funding, 16 gender social pacts have already been implemented all over the regional territory.

The territorial pacts are agreements between public and private sector aimed at activating and diffusing actions to support motherhood and fatherhood and at testing modalities to organize working time to favor the re - conciliation between professional life and private life and promote a fair distribution of caring work between the sexes. Pacts involve provinces, municipalities, trade unions and business organizations, school system, local health care units and family counseling centers.

Regulation for territorial plans of times and spaces and the Time banks.

Rules for the design and implementation of territorial plans of times and spaces, and for the establishment, promotion and support of the time banks under the regional Law n . 7 of 21 March 2007 and the Law March 8, 2000 , n . 53 , for the assignment of regional grants to municipalities and Ambiti Territoriali: Regional Regulation 11 November 2008 , n . 21 System Actions to support family associations: 80 projects submitted by associations have been funded aimed at testing innovative tools such as the Time Banks, ethical and aware purchasing experiences and supportive forms of mutual help for parental care also by means of computer-based and assistive technologies and the corporate volunteering.

More specifically, there are 10 time banks on the regional territory that benefit from the regional support in terms of promotional, dissemination and informational activities.

Economic measures to support parenthood and work-life balance

Project R.O.S.A : R.O.S.A Project for the surfacing of the hidden family helpers, to promote the reconciliation life - work and the quality of home care. Families that hire domestic

helpers registered in the special lists of the ROSA project established at the EMPLOYMENT CENTRES receive specific grants.

Online catalog of services for children and vouchers for conciliation service: The catalog of early childhood services for the reconciliation of life – work is online. This measure contributes to satisfy the needs of families to reconcile life and work, and especially of women with minor children wishing to enter or improve their position in the labor market. The resources are used only to cover the costs to purchase care services

For companies:

Establishment of funds to promote flexibility at work: the process to establish flexibility funds is ongoing with Puglia joint consultative bodies for the integration of the income of female and male workers wishing to make use of flexibility instruments at work in the case of optional leave for maternity, reduction of working time due to care charges , family care leaves

On violence against women: For the implementation of interventions under the Regional program to prevent and combat violence in the period 2009-2011. 6 Plans for Local Actions have been approved and are in progress to strengthen the network of services for the prevention and fight against gender violence designed by the provinces together with the Ambiti territoriali for the achievement of service objectives which provide, as a minimum set, 2 anti-violence centers by province , one shelter home , a multidisciplinary team in each Ambito territoriale.

Some tools for the economic independence of women victims of violence are going to be activated. They intervene at the level of A) integration or re-integration in the labour market; B) right to housing.

Other actions in progress:

Register of female associations and movements with links to female associations websites

The Register has been established and the approval of the law n. 7 for what regards the registration procedures is ongoing. The registration will imply the submission of an application to the relevant desk, without waiting for the publication of a yearly call for expressions of interest.

Around 100 associations are registered

Annual reports on the condition of Women in Puglia

the first three reports have been published for the years 2009, 2010 and 2012 .

I Report : condition of Women in Puglia and conciliation services - 2010

II Report : Women and Employment - 2011

The second report discusses the main dynamics of female labor market in relation to some regional "structural" policies to support the labor demand.

III Report : women and work in the economic crisis - Year 2012

Observatory on gender communication: Established in March 2011, with the Apulian Universities and equality bodies, the Observatory on gender communication, with the task to provide scientific support to the region in the field of gender-oriented communication, pro-

motes prevention activities and to contrast gender stereotypes and promotes new technical - scientific, educational and cultural initiatives in this field.

For women's health:

In September 2008 the first Regional Forum on women's health and well-being was held and proposed some modifications to the Health Plan.

The Permanent Observatory on women's health and well-being was established which launched the Regional Programme for the reorganization of the Apulian network of family consulting centers, around shared objectives of services accessibility, multidisciplinary character of the performances, efficiency and active offer .

Resources are allocated to strengthen the infrastructure, equipment and social value activities. Under the program, in particular, a specific plan on intercultural mediation for immigrant women is designed.

Gender Label

Guidelines are drafted for the assignment of the Gender Label to promote social responsibility oriented to gender in the Apulian entrepreneurial system .

The resolution on the label adoption is under discussion.

# 7

## Annexes Spanish Legislation

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Real Decreto Legislativo 1/2013 of 29 November, approving the recast text of the General Law on the Rights of Persons with disabilities and their social inclusion

### 1.1. Current situation

Integrating persons with disabilities in society and employment allows them to improve their quality of life through the development of their skills, to fulfill themselves and to enter the world of work without discrimination and on equal terms. The social integration of person with disabilities is a constitutional right, and it is up to public authorities to pursue policies that remove barriers that prevent or hinder such integration. In Spain there is a wide set of laws committing the government and society to the respect and implementation of legislation focusing on the inclusion of vulnerable groups in the labor market. The laws on the rights of persons with disabilities and their social inclusion, and the measures and instruments used so far to guide businesses, institutions and workers are summarized below.

Law 13/1982 of 7 April on the social integration of persons with disabilities was the first law passed in Spain to regulate the care and support to persons with disabilities and their families, in accordance with Articles 9, 10, 14 and 49 of the Constitution, and it represented a significant advance at the time. It embraced the idea that special protection and special equalization measures to ensure the rights of persons with disabilities should be based on complementary support, technical assistance and specialized services to enable them to lead a normal life in their own environment. It established a system of cash bene-

fits and services, labor integration measures, accessibility and economic subsidies, and a set of principles which have been subsequently incorporated in the laws on health, education and work.

At a later time, Law 51/2003 of 2 December on equal opportunities, non-discrimination and universal accessibility for disabled persons, provided a further boost to equality policies for persons with disabilities, in particular by focusing on two intervention strategies: anti-discrimination and universal accessibility. Afterwards, Law 49/2007 of 26 December was approved, in which the infringements systems and penalties in the field of equal opportunities, non-discrimination and universal accessibility for persons with disabilities were established.

Moreover, although it is not the object of this regulation, Law 27/2007 of 23 October is mentioned in the regulatory framework of the rights of person with disabilities, as it acknowledges the Spanish sign languages and the means of support for the verbal communication of hearing-impaired persons, persons with hearing difficulties and deafblind, while recognizing the right to free choice of hearing-impaired and deafblind persons as regards learning, knowledge and use of the Spanish language, besides their right to choose different means of support for oral communication, which are essential for social inclusion.

Finally, it is essential to refer to the Convention on the Rights of Persons with Disabilities, adopted on 13 December, 2006 by the General Assembly of the United Nations (UNO), ratified by Spain on 3 December 2007 and entered into force on 3 May 2008. The Convention defines the identification of methods of approach to the rights of persons with disabilities, so that it considers persons with disabilities as subjects entitled to rights, and public bodies are required to ensure that the exercise of these rights is total and effective.

## 1. 2. Ordinary working system

In order to promote employment opportunities for persons with disabilities in the regular labor market in our country, a quota system was introduced which binds employers to reserve a percentage of jobs in their companies for workers with disabilities. Public and private companies that employ more than fifty workers are obliged to employ a number of workers with disability of at least 2%, unless there is a collective agreement or the em-

ployer guarantees the enforcement of alternative measures. Existing alternative measures are, on the one hand, donations to nonprofit organizations, and on the other hand, subcontracting to special job centres.

If companies do not comply with this obligation, they risk penalties or they have to contribute by paying a sum of money to a fund that finances vocational rehabilitation and employment promotion. However, one can detect a widespread violation, with the inertness of governments and authorities and lack of control.

Thanks to the associations, the employment policies regarding persons with disabilities have undergone significant change in recent years. Every time a greater emphasis is put on promotion and on the resources to create opportunities for access to existing jobs in the labor market, both in the ordinary system and in the protected and autonomous system, you end up with exercising the right to work:

- Regular employment in businesses and public administrations, including supported employment services;
- Sheltered employment in special employment centres and work enclaves;
- Self-employment.

### 1.3. Sheltered employment system

In order to ensure employment to persons with more severe disabilities and prevent their exclusion from employment, special employment centres have been created, along with sheltered businesses or professional centres and insertion companies that constitute an effective tool in our country.

Employment centres are meant to guarantee occupational therapy services and personal and social adaptation for persons with disabilities in order to obtain the maximum personal development and, where possible, to facilitate their training and preparation for the ac-

cess to employment. These services are supplied to workers with disabilities who, having developed a specific work activity, have not reached a satisfactory adaptation or suffer a deterioration in their situation which makes their integration in a work centre advisable.

Public authorities, according to their skills, establish the specific relevant rules by defining such conditions as to satisfy all employment centres, in order to sanction their foundation and their operation.

The foundation and maintenance of these centres is the responsibility of both public administrations and institutions and private non-profit companies; the latter, in any case, have to follow the rules for their foundation and operation in accordance to what was said in the previous paragraph.

The main objective of special employment centres is to produce goods or services, taking regularly part in market operations; they are intended besides to offer paid work to persons with disabilities; they also constitute a means of inclusion in ordinary employment for most of these people. Similarly, special employment centres have to provide personal and social adjustment services required by disabled workers through support units, according to their situation and in accordance with the provisions of law.

The staff of the special employment centres has to be composed of the greatest number of workers with disabilities that allows the production process and, in any case, at least 70%. Anyway, the non-disabled staff engaged in the provision of personal and social adjustment services is not to be taken into account. By personal and social adjustment services are meant those services that allow you to help persons with disabilities to overcome the barriers, obstacles and difficulties they face in entering the special work centres or in getting stabilized or in advancing in a certain job. In addition, services aimed at social, cultural and sports inclusion are also included in the definition.

Finally, insertion companies are structures producing goods or services that aim at helping socially disadvantaged or marginalized groups to take part in the labor market; insertion companies carry out a personal project of insertion through a process of relevant learning which provides for the attainment of social skills, work competences, basic education, vo-

cational skills and market knowledge to help improve the employability of disadvantaged and marginalized people.

The insertion companies provide work integration paths on the basis of the criteria established by the relevant Public Social Services and Public Services of Employment, according to the integration enterprises. The paths have to be accepted by the socially excluded people, with the aim of promoting their integration into the regular labor market, while defining the necessary intervention and support measures.

Intervention and support measures consist in a range of services, performance, guidance, tutoring, customised processes and paid work assisted processes, training in the workplace and attaining work and social habits; all these measures are planned to meet the needs or solve the problems that arise from a specific situation of exclusion which hinders people from the normal development and entry in the work market.

#### 1.4. State aid in terms of health care, education ...

The special system of services established by the Law on the social integration of persons with disabilities (LISMI), developed in “Real Decreto” 383/1984 of 1 February, establishes a number of technical and economic services aimed at protecting persons with disabilities who - not having any job- do not fall into the category of those who apply for social security. In this system, two laws on social and economic procedure services for persons with disabilities are included, in terms of health care, education and resources to improve their living conditions, adapting the home environment to make it more accessible etc.

Article 9. Pharmaceutical care of the special system of economic and social service for persons with disabilities: The beneficiaries of the special system of assistance and of the economic benefits envisaged in this chapter shall be exempt from the contribution of medicines consumption.

## Article 10. Right to Health Protection.

1. Persons with disabilities have the right to health protection, including the prevention of disease and the protection, promotion and recovery of health, without discrimination on grounds of disability, paying particular attention to mental health and to sexual and reproductive health.
2. The actions of the public authorities and private entities will pay particular attention to the needs of persons with disabilities, based on the general and sectoral legislation on health.
3. The government will develop the necessary competences for the coordination of the social and health care, in an effective and efficient way, aimed at people who, because of their health problems associated with their disabilities, simultaneously or successively need both systems of care. Necessary measures to improve the access of persons with disabilities to services related to health will be promoted on equal basis for them and other citizens.

### 1.5. Rights of Persons with Disabilities

“Real Decreto legislativo” 1/2013 of 29 November, approving the recast text of the General Law on the Rights of persons with disabilities and their social inclusion.

## Title I: Rights and Obligations

Article 7. Right to equality: Persons with disabilities have the same rights as other citizens under our legal system.

## CHAPTER I: Social and economic benefits system

Article 8. Special system of economic and social service for persons with disabilities: The protective action of the special system of social and economic service for persons with disabilities who do not appear in a social security system since they don't have any job includes

- a) health and pharmaceutical services;
- b) mobility contribution and reimbursement of travel expenses;
- c) professional recovery;
- d) habilitation and vocational rehabilitation.

Article 9. Pharmaceutical assistance of the special system of social and economic service for persons with disabilities: The beneficiaries of the special scheme of assistance and financial benefits provided for in this chapter shall be exempt from the contribution for the consumption of medicinal products.

## CHAPTER II: Right to the protection of health

Article 10. Right to health care: Persons with disabilities are entitled to health care, including disease prevention and the protection, promotion and recovery of health, without di-

scrimination on grounds of disability, paying particular attention to mental health and to sexual and reproductive health.

Article 11. Prevention of deficiencies and of disability intensification: The prevention of deficiencies and of the intensification of disabled people is a right and a duty of all citizens and of society as a whole, and it represents a priority for the State in the field of public health and social services. The prevention of deficiencies and intensification of persons with disabilities is addressed to the diversity of persons with disabilities, giving different treatment depending on the specific needs of each person.

Article 12. Multidisciplinary attention to disability units: Multidisciplinary Units of attention to disability of each sectoral level must have the corresponding specialized training and must be competent in their own area, to provide interdisciplinary attention to every person with a disability who needs it to ensure the inclusion and the full participation in a society based on equal conditions with others.

### CHAPTER III: Integral Attention

Article 13. Integral Attention: For integral Attention are meant the processes or any other intervention measures aimed at enabling persons with disabilities to gain their highest level of development and personal autonomy, and to attain and maintain maximum independence, full physical, mental and social capacity and their inclusion and full participation in all aspects of life, and not least, to get a proper job.

Article 14. Habilitation or medical-functional rehabilitation.

Any person with some deficiency in his structures or in his physical or psychosocial functions, which may lead to a limitation in the ability, qualified as a disability in accordance with the legislation, will benefit from the enabling processes or medical-functional rehabilitation needed to improve and reach the maximum personal autonomy and to get the necessary support to personal development as well as to the full and effective participation in society on an equal basis with others.

Article 15. Care, Treatment and Psychological Consulting: these will be present during the various steps of the interdisciplinary process of habilitation or rehabilitation, and will be tar-

geted at the disabled person to achieve maximum independence and full development of his personality, as well as providing support to their most immediate family environment.

Article 16. Training: The inclusive education will be part of the comprehensive care of persons with disabilities and will be supported by recognized regulations in chapter IV with this title and in the Organic Law 2/2006 of 3 May on Education.

Article 17. Support for the professional activity: Persons with disabilities in working age are entitled to benefit from the educational and work rehabilitation programs, maintenance of employment and reintegration at work.

#### CHAPTER IV: Right to education

Article 18. Contents of the right: Persons with disabilities have the right to inclusive, free and qualified education, on an equal basis with other people.

Article 19. Free Education: Persons with disabilities in their educational steps will have the right to free education in regular schools and in special schools, as stated in the Constitution and in the related laws.

Article 20. Additional guarantees.

Article 21. Assessment of educational needs: It is the specific function of the school orientation services to give support to teachers in the process towards inclusion and especially orientation, assessment and educational intervention, contributing to pedagogical dynamism, quality and educational innovation.

#### CHAPTER V: Right to independent living

Article 22. Accessibility: Persons with disabilities have the right to live on their own and fully take part into all aspects of life.

Article 23. Basic conditions of accessibility and non-discrimination: The Government, subject to the powers of the autonomous communities and local authorities, will set the basic conditions of accessibility and non-discrimination in order to ensure the same levels of equal opportunities for all persons with disabilities.

Article 24. Basic conditions of accessibility and non-discrimination in the field of products and facilities related to information and the media context

Article 25. Basic conditions of accessibility and non-discrimination for building and urbanized public spaces

Article 26. Technical regulations for the construction industry: The Technical Building Regulations include minimum conditions to be met for buildings of any type in order to allow accessibility to people with disabilities.

Article 27. Basic conditions of accessibility and non-discrimination in all transport facilities.

Article 28. Basic conditions of accessibility and non-discrimination in the relationship with public administrations.

Article 29. Basic conditions of accessibility and non-discrimination for access to and use of goods and services available to the public: Any natural or legal person in the public or private sector providing goods or services to the public, offered outside private and family life, will be required, in his activities and in subsequent operations, to respect the principle of equal opportunities for persons with disabilities, thus avoiding discrimination, direct or

indirect, due to reasons of disability.

Article 30. Measures to facilitate the parking of vehicles: The Municipalities will adopt appropriate measures to facilitate the parking of cars belonging to persons with serious mobility problems due to their disability.

Article 31. Contribution to mobility and of travel expenses refund: Persons with disabilities who have difficulties in using public transport, and which meet the requirements of the Regulation, will be entitled to receive a mobility allowance and compensation for transportation cost, the amount of which will be established annually by the "Ley de Presupuestos Generales del Estado"

Article 32. Accommodation reserve for people with disabilities and accessibility: In the planning of housing a minimum of 4% will be designed with appropriate features to ensure a safe and functional access to people with disabilities.

Article 33. Concept of rehabilitation housing: In order to get grants and loans with subsidized interest rates to people with disabilities or families or cohabitating units in which there is a member with disabilities who needs to make changes to their homes in such a way to have accessibility to their habitual and permanent home.

Article 34. Other measures for public accessibility.

## CHAPTER VI: The right to work

Article 35. Guarantee of the right to work: Persons with disabilities have the right to work in conditions which ensure the application of the principles of equal treatment and non-di-

scrimination.

Article 36. Equal treatment: Absence of any direct or indirect discrimination based on disability, at work, in training and professional promotion and working conditions.

Article 37. Types of employment of persons with disabilities: Persons with disabilities can exercise their right to work through the following types of work:

- a) ordinary jobs, business and public administrations, including services that support employment;
- b) reserved employment in special employment centers and "Enclaves Laborales";
- c) self-employment.

Article 38. orientation, placement and registration of workers with disabilities for job placement: It is up to public employment services, either directly or through the cooperation of organizations, and to duly authorized employment agencies, guidance and equal conditions of persons with disabilities who are in job search situation.

Article 39. Aid for the creation of jobs for persons with disabilities: the employment of persons with disabilities will be encouraged through the establishment of a support to facilitate their employment. This assistance may consist in study loans or recruitment grants, the adaptation of workplaces, eliminating all barriers that impede their access, mobility, communication or understanding in production facilities, the possibility of settling as self-employed, reductions in social security contributions and all the appropriate tools to promote the inclusion of persons with disabilities, in particular the promotion of cooperatives and other social economy entities.

Article 40. Measures to prevent or compensate for occasional disability disadvantages as a guarantee of full equality in the workplace.

Article 41. Assisted employment facilities The employment services are a set of measures for the guidance and individualized support in the workplace, which are intended to facilitate the social and job adaptation of disabled workers with particular difficulties in inclusion in the ordinary labor market companies, to put them in similar conditions to other employees performing equivalent jobs. The supported employment services are regulated by corresponding regulations.

Article 42. Reserved share of jobs for persons with disabilities:

1. The public and private companies that employ a number of fifty or more employees are required to have at least 2% of disabled workers.

Article 43. Special centres of employment for inclusion in the work of persons with disabilities: The special employment centres are those whose main objective is to carry out a productive activity of goods or services, participating regularly in market operations, and that are intended to guarantee paid work for all people with disabilities; while they are a means of inclusion of most of these persons in ordinary work regime. Similarly, special work centres will have to provide, through support units, personal and social adjustment services that require workers with disabilities, according to their situation and in accordance with the provisions of law.

Article 44. Financial compensation for special work centres aimed at employing persons with disabilities: In the manner prescribed by regulation, the government will establish a financial compensation, allocated to the centres, in order to contribute to their development and determine the control mechanisms that may be considered appropriate.

Article 45. Creation of special work centres for the employment of persons with disabilities.

Article 46. Enclaves Laborales: in order to facilitate the transition to ordinary employment of women workers with disabilities in presence of particular difficulties to access any employment, "Enclaves Laborales" may be established to create alternative formulas for the promotion and protection of employment of persons with disabilities, whose characteristics and conditions are laid down in Regulation.

Article 47. Self-employment: Public authorities, within their respective competences, will adopt policies aimed at promoting self-employment of persons with disabilities, at creating and developing economic and professional initiatives on their own, or through entities of social economy, according to the rules of matter.

## CHAPTER VII: The right to social protection

Article 48. The right to social protection: Persons with disabilities and their families are entitled to some services and social benefits that pay attention to their needs, with sufficient safeguards and sustainability, and that are intended to develop their personality and inclusion in the community and increase their quality of life and social welfare.

Article 49. Criteria for the implementation of social protection: The social services for persons with disabilities and their families will be provided both by public authorities and non-profit institutions, through financial channels, human resources and all necessary techniques.

Article 50. Content of the right to social protection: Persons with disabilities and their families are entitled to social services, family support, prevention of wants and intensification of disabilities, personal autonomy promotion, information and guidance, home care, housing, support in their environment, residential services, cultural activities, sports, and occupation of free time. In addition, the regional legislation will provide services and economic benefits to persons with disabilities and the families who are in situations of need and who do not have the necessary resources to deal with such situations.

Article 51. Classes of social services: Subject to the application of the measures provided in general terms in this law, when the specificity and the need for support so require, the disabled person has the right to reside or be treated in a specialized establishment.

Article 52. Professional Centres: The training centres are designed to ensure the occupational therapy services and the personal and social adaptation for persons with disabilities so as to maximize their personal development and, where possible, facilitate their training and preparation for the access to employment. Besides they will also provide these services to those disabled workers who, having developed a specific work activity, have not reached a satisfactory adaptation or have suffered such a deterioration in their situation that their integration in an employment centre will be recommended.

## CHAPTER VIII: Right to participate in public life

Article 53. Right to participate in political life: Persons with disabilities can exercise the right to participate in political life and in elections on an equal footing as other citizens, under the regulations. To this end, public authorities will provide the means and resources they need

Article 54. Right to participate in public life: Persons with disabilities can effectively and fully participate in public decisions that affect them on an equal footing as other citizens. To this end, public authorities will provide the means and resources that are necessary.

Article 55. National Council on Disabilities: The "Consejo National Disability", the National Council on Disability, is the official inter-ministerial consultation collegial body, in which the cooperation between the associative movement of persons with disabilities and their families and the state administration is institutionalized, in order to define and coordinate the public policies that guarantee the rights of persons with disabilities. Their composition and duties are properly set out. In particular, the National Council on Disability will promote equal opportunities and non-discrimination of persons with disabilities.

Article 56. Oficina de Atención a la Discapacidad, Support office to disability.

“Oficina de Atención a la Discapacidad”, the Support office to disability is the permanent and specialized body of “Consejo Nacional de la Discapacidad”, the National Council on Disability. It has the duty to promote equality of opportunity, non-discrimination and universal accessibility for persons with disabilities. The most representative Organizations, Institutions and Associations of public utilities for persons with disabilities and their families will cooperate with Disability Assistance Office.

# 8

## Notes

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1. Read more at <https://www.facebook.com/aresnetwork> and <https://www.youtube.com/user/aresnetworkvideo>.
2. ILGA State Sponsored Homophobia 2015 : [https://www.google.nl/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwioi4W3xbDJAhWCQBoKHyt2DGGEQFgghMAA&url=http%3A%2F%2Fold.ilga.org%2FStatehomophobia%2FILGA%2FStateSponsoredHomophobia2015.pdf&usg=AFQjCNGNXQnPuX0O5vdhCXQ-IvInissJnw&sig2=hiai4wzEoO\\_sT\\_X34D\\_YQw](https://www.google.nl/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwioi4W3xbDJAhWCQBoKHyt2DGGEQFgghMAA&url=http%3A%2F%2Fold.ilga.org%2FStatehomophobia%2FILGA%2FStateSponsoredHomophobia2015.pdf&usg=AFQjCNGNXQnPuX0O5vdhCXQ-IvInissJnw&sig2=hiai4wzEoO_sT_X34D_YQw) Surveys carried out by FRA - FUNDAMENTAL RIGHTS AGENCY : [http://fra.europa.eu/sites/default/files/fra-2014-being-trans-eu-comparative-0\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2014-being-trans-eu-comparative-0_en.pdf) EU LGBT survey European Union lesbian, gay, bisexual and transgender survey - Main results: [http://fra.europa.eu/sites/default/files/fra-eu-lgbt-survey-main-results\\_tk3113640enc\\_1.pdf](http://fra.europa.eu/sites/default/files/fra-eu-lgbt-survey-main-results_tk3113640enc_1.pdf)
3. See also [http://ec.europa.eu/justice/criminal/victims/index\\_en.htm](http://ec.europa.eu/justice/criminal/victims/index_en.htm)
4. The conference aimed to take stock of the achievements and challenges ahead regarding the fundamental rights situation for LGBTI persons in the EU, at the start of the new EU legislature. The debates focused on the EU and Member State level and were informed by data collected by the EU Agency for Fundamental Rights (FRA).
5. Spain, Organic Law 1/2015 of 30 March 2015 which amends the Organic Law 10/1995 of 23 November 1995 of the Penal Code (Ley Orgánica 1/2015, de 30 de marzo de 2015, por la que se modifica la Ley Orgánica 10/

- 1995, de 23 de noviembre, del Código Penal.
6. Report on evolution of hate crimes in Spain 2013 (Informe sobre la evolución de los delitos de odio en España 2013), 24 April 2013
  7. Estudio 2013 sobre discriminación por orientación sexual y/o identidad de género en España
  8. See also <http://www.amsterdo.com/pink-police-network-amsterdam-politienetwerk-roze-in-blauw-amsterdam/> and <https://www.facebook.com/rozeinblauw.ams>
  9. Netherlands, Homomonument (2014), Homomonument, [www.homomonument.nl](http://www.homomonument.nl)
  10. Law n. 654 of 13 October 1975, that ratifies and implements the International Convention on the Elimination of All Forms of Racial Discrimination and Legislative Decree n. 122 of 26.04.1993 converted into the Law n. 205/93, so called Legge Mancino
  11. See Judgement Oliari and Others v. Italy, [http://hudoc.echr.coe.int/eng?i=001-156265#{%22itemid%22:\[%22001-156265%22\]}](http://hudoc.echr.coe.int/eng?i=001-156265#{%22itemid%22:[%22001-156265%22]}) and <http://www.advocate.com/italy/2015/07/21/breaking-european-court-rules-it-aly-same-sex-marriage-ban-human-rights-violation>
  12. <http://www.senato.it/leg/17/BGT/Schede/FascicoloSchedeDDL/ebook/46051.pdf>
  13. Italy, Tribunal of Reggio Emilia (Tribunale di Reggio Emilia) (2012), X v. Questore di Reggio Emilia, Decision 15, 13 February 2012, [www.articolo29.it/decisioni/tribunale-di-reggio-emilia-prima-sezione-civile-decreto-del-13-febbraio-2012/](http://www.articolo29.it/decisioni/tribunale-di-reggio-emilia-prima-sezione-civile-decreto-del-13-febbraio-2012/); Tribunal of Pescara (Tribunale di Pescara) (2013), G. v. Questore di Pescara, Decision, 15 January 2013, [www.articolo29.it/decisioni/tribunale-di-pescara-ordinanza-del-15-gennaio-2013/](http://www.articolo29.it/decisioni/tribunale-di-pescara-ordinanza-del-15-gennaio-2013/)
  14. Italy, Minister of the Interior (Ministero dell'Interno) (2012b), Note on same-sex unions – residence permit under Legislative Decree No. 30/2007 (Circolare sulle unioni tra persone dello stesso sesso – Titolo di soggiorno ai sensi del decreto legislativo n. 30/2007) No. 8996, 5 November 2012, [www.articolo29.it/wp-content/uploads/](http://www.articolo29.it/wp-content/uploads/)

[2012/11/nota-ministero-interni-5-11-2012.pdf](http://www.articolo29.it/wp-content/uploads/2012/11/nota-ministero-interni-5-11-2012.pdf)

15. Italy, Tribunal of Grosseto (Tribunale di Grosseto) (2014), X and Y v. Registrar of Grosseto (Ufficiale dello stato civile di Grosseto), decision, 3 April 2014, [www.articolo29.it/wp-content/uploads/2014/04/ordinanza-Tribunale-di-Grosseto-3-aprile-20141.pdf](http://www.articolo29.it/wp-content/uploads/2014/04/ordinanza-Tribunale-di-Grosseto-3-aprile-20141.pdf).
16. Italy, Minister of Internal Affairs (Ministero dell'Interno) (2014), Note on the transcription of marriages (Circolare in materia di trascrizione dei matrimoni), 7 October 2014, [www.articolo29.it/documentazione-giuridica/circolare-ministero-dellinterno-in-materia-dei-trascrizione-dei-matrimoni-7-ottobre-2014/](http://www.articolo29.it/documentazione-giuridica/circolare-ministero-dellinterno-in-materia-dei-trascrizione-dei-matrimoni-7-ottobre-2014/).
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29. Open for Business is a coalition of companies supporting LGB&T inclusion launched at the Clinton Global Initiative Annual Meeting in New York on the 29th September 2015. See <http://www.open-for-business.org/>
30. The conference aimed to take stock of the achievements and challenges ahead regarding the fundamental rights situation for LGBTI persons in the EU, at the start of the new EU legislature. The debates focused on the EU and Member State level and were informed by data collected by the EU Agency for Fundamental Rights (FRA).
31. SOURCE: CESIE's final EAN dissemination report and <http://www.antibullying.eu/news>

32. Besluit van 21 september 2012 tot wijziging van het Besluit vernieuwde kerndoelen WPO, het Besluit kerndoelen onderbouw VO, het Besluit kerndoelen WEC, het Besluit kerndoelen WPO BES en het Besluit kerndoelen onderbouw VO BES in verband met aanpassing van de kerndoelen op het gebied van seksualiteit en seksuele diversiteit), Law Gazette (Staatsblad) (2012), No. 470; in force since 1 December 2012, Law Gazette (Staatsblad) (2012), No. 594.
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34. Organic Law on Education (Ley Orgánica de Educación), No. 2, 3 May 2006.
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37. The conference aimed to take stock of the achievements and challenges ahead regarding the fundamental rights situation for LGBTI persons in the EU, at the start of the new EU legislature. The debates focused on the EU and Member State level and were informed by data collected by the EU Agency for Fundamental Rights (FRA).
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43. Spain (2012), Law of 14/2012 approved by the Vasque Parliament on 28 June 2012, on non-discrimination on the ground of gender identity and recognition of the rights of transsexual persons (Ley de no discriminación por motivos de identidad de género y de reconocimiento de los derechos de las personas transexuales), Spanish State Official Bulletin No. 172 of 19 July 2012, pp. 51730-51739 (BOE-A-2012-9664).
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  45. European Association of Urology (2010), Guía clínica sobre urología pediátrica.
  46. NHS Choices (2014), Disorders of sex development, 12 November 2014
  47. Law of 18 December 2013 for the amendment of Book 1 of the Civil Code and the Municipal Registration Act relating to the amendment of the conditions for an authority to change the registration of sex in the birth certificate (Wet van 18 december 2013 tot wijziging van Boek 1 van het Burgerlijk Wetboek en de Wet gemeentelijke basisadministratie persoonsgegevens in verband met het wijzigen van de voorwaarden voor en de bevoegdheid ter zake van wijziging van de vermelding van het geslacht in de akte van geboorte), 18 December 2013.
  48. Elling, A. (2002). Ze zijn er niet voor gebouwd: in- en uitsluiting in de sport naar sekse en etniciteit. Nieuwegein / 's-Hertogenbosch: Arko Sports Media / W.J.H. Mulier instituut.
  49. <http://www.nocnsf.nl/CMS/showpage.aspx?id=2184>
  50. <http://nocnsf.nl/stream/advies-transgenders-en-sport-nocnsf>, 2015
  51. The CJEU has ruled on key aspects of assessing asylum claims based on the protected ground of sexual orientation. The court has established the following principles:
    - when a person who applies for international protection because of his or her sexual orientation flees from a country that criminalises consensual same-sex acts, that person must be considered a member of a ‘particular

social group' for purposes of granting international protection;

- when the criminal sanction for same-sex acts is imprisonment and such sanction is applied in the country of origin, the sanction itself can constitute an 'act of persecution';
- asylum authorities cannot expect an applicant to conceal his or her sexual orientation in his or her country of origin, nor can they expect the applicant to exercise reserve in the expression of his or her sexual orientation;
- during asylum procedures, an applicant's individual situation and personal circumstances should be taken into account;
- detailed questioning about sexual practices is not allowed;
- an applicant's failure to answer stereotypical questions in itself cannot be used to conclude that the applicant's statements about his or her sexual orientation are not credible;
- asylum authorities cannot allow evidence such as performance by applicants of acts demonstrating their sexual orientation;
- asylum authorities cannot subject applicants to 'tests' to demonstrate their sexual orientation, or accept from applicants evidence such as films of their intimate acts;

- the late disclosure of sexual orientation cannot in itself lead to the conclusion that an applicant's statements about his or her sexual orientation lack credibility.

52. See more at:

<http://www.asylumineurope.org/reports/country/italy/annex-transposition-ceas-national-legislation#sthash.kLiTVhfg.dpuf>

53. According to information provided by the national expert of FRA's research network, same-sex partners and other family members of a refugee can also qualify for a residence permit on asylum grounds (verblijfsvergunning asiel). This concerns the spouse or minor child of the refugee and an alien who, as a partner or adult child, is dependent on the refugee to such an extent that he or she belongs to the refugee's family for that reason.

54. Spain, Asylum and Subsidiary Protection Act (Ley reguladora de derecho de asilo y de la protección subsidiaria), 30 October 2009, No. 12.

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57. Netherlands (2011), LGBT and gender equality policy plan of the Netherlands 2011–2015 (Hoofdlijnen emancipatiebeleid: vrouwen- en homo-emancipatie 2011-2015), available in English at : [www.government.nl/documents-and-publications/leaflets/2012/01/10/lgbt-and-gender-equality-policy-plan-of-the-netherlands-2011-2015.html](http://www.government.nl/documents-and-publications/leaflets/2012/01/10/lgbt-and-gender-equality-policy-plan-of-the-netherlands-2011-2015.html)
58. See <http://www.pariopportunita.gov.it/index.php/archivio-notizie/1654-unar-al-via-il-progetto-qdiversita-come-valoreq>
59. See report of the meeting held in October 2013 [http://ec.europa.eu/justice/discrimination/files/sem\\_lgbt\\_brussels2013\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/sem_lgbt_brussels2013_en.pdf)
60. Health, Social Services and Equality Ministry (Ministerio de Salud, Servicios Sociales e Igualdad) (2013), Diagnostic study of secondary sources about discrimination in Spain. No online reference for this initiative yet exists, other than the executive summary of a report identifying and analysing the available secondary data sources on this issue, available in English at: [www.msssi.gob.es/ssi/igualdadOportunidades/noDiscriminacion/documentos/r\\_Ingles\\_vf..pdf](http://www.msssi.gob.es/ssi/igualdadOportunidades/noDiscriminacion/documentos/r_Ingles_vf..pdf)
61. The conference aimed to take stock of the achievements and challenges ahead regarding the fundamental rights situation for LGBTI persons in the EU, at the start of the new EU legislature. The debates focused on the EU and Member State level and were informed by data collected by the EU Agency for Fundamental Rights (FRA).
62. See <http://www.humanconsultancy.com/project?pid=50>
63. TN: Ambiti Territoriali : bodies composed of different municipalities in charge of planning and providing social and health care services on a given territorial area

# INTELLECTUAL OUTPUT 04 TOOLKIT

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