



**Brussels, 9 June 2016
(OR. en)**

9948/16

**SOC 393
GENDER 26
ANTIDISCRIM 39
FREMP 107**

NOTE

From:	Permanent Representatives Committee (Part 1)
To:	Council
No. prev. doc.:	9634/16 SOC 363 GENDER 24 ANTIDISCRIM 35 FREMP 93
Subject:	Response to the Commission's List of actions to advance LGBTI equality - Draft Council Conclusions

At its meeting on 7 March 2016, the EPSCO Council did not quite manage to reach an agreement on a package of two sets of draft Council Conclusions entitled "Response to the Commission's Strategic engagement for gender equality" and "Response to the Commission's List of actions to advance LGBTI".

In the light of the importance of equality in general, and of gender and LGBTI equality in particular, and following the request of several Member States, the Presidency decided to resume the negotiations on the package.

At its meeting on 8 June 2016, the Committee of Permanent Representatives broadly supported the revised version of the draft Conclusions on LGBTI equality as attached.

HU maintained a scrutiny reservation on the document.

PL announced its intention to submit a statement for the Council's minutes.

SE and DK entered scrutiny reservations. These delegations acknowledged the effort of the Presidency to find a compromise that is acceptable for all Member States, but needed more time to reflect on the most recent revisions.

A number of other delegations also observed that extensive changes that had been made to the text, but could support the Presidency's approach with a view to reaching a compromise (UK, BE, AT, IT, MT, IE, PT, DE, ES, FR).

A number of delegations also underlined the importance of adopting Conclusions on *both Gender Equality and LGBTI Equality*, the Presidency having tabled the two texts as a package (SE, UK, BE, DK, AT, IT, MT, IE, PT, DE, ES, FI, FR).

The EPSCO Council is invited to address the remaining scrutiny reservations and to adopt the attached draft Conclusions at its session on 16 June 2016.

Response to the Commission's
List of actions to advance LGBTI¹ equality
- Draft Council Conclusions

WHEREAS

1. Respect for human rights is a founding value for the Union, as stated in the Treaty on European Union and in the Charter of Fundamental Rights of the European Union.
2. It is important to promote common values, such as respect for human rights, as well as a common understanding that human rights are universal and apply to all.
3. The Treaty on the Functioning of the European Union (TFEU) provides that the Union shall aim in all its activities to eliminate inequalities and to combat discrimination on various grounds, including sex and sexual orientation, when defining and implementing its policies and activities² and empowers the Council to take action to combat discrimination on those grounds.³
4. This set of Conclusions builds on previous work and political commitments voiced by the European Parliament, the Council, the Commission and other relevant stakeholders, including the documents listed in Annex I.
5. Within its field of application, Article 21 of the Charter of Fundamental Rights of the European Union explicitly prohibits any discrimination based on sex and sexual orientation.
6. Discrimination on the grounds of sexual orientation is also prohibited under Union law in the field of employment.

¹ Lesbian, gay, bisexual, transgender and intersex persons.

² Article 8 and 10 TFEU.

³ Article 19 TFEU.

7. TAKES NOTE of the Commission's intention to ensure coherence between its List of actions to advance LGBTI equality and the Council's Guidelines to promote and protect the enjoyment of all human rights by LGBTI persons in the context of the EU's external policy.
8. INVITES THE EUROPEAN COMMISSION to promote the measures outlined in its List of actions to advance LGBTI Equality while fully respecting the Member States' national identities and constitutional traditions as well as the competence of the Member States in the field of family law, to keep the Member States regularly informed of the progress made through the High Level Group on Non-Discrimination, Equality and Diversity and to pay attention to the enjoyment of fundamental rights by LGBTI persons when carrying out the fundamental rights check of any proposed policy measure.
9. INVITES THE EUROPEAN COMMISSION to report on progress with regard to its List of actions to advance LGBTI equality by the end of 2016 and yearly thereafter.
10. CALLS ON THE EUROPEAN COMMISSION to step up efforts in the field of comparative data collection on the discrimination of LGBTI persons in the EU, in the field of targeted awareness-raising activities in key areas, such as employment, education, health and sports, and in the field of knowledge of rights and the fight against under-reporting of discrimination incidents. Policies to combat discrimination of LGBTI persons fall within the broader context of equal treatment.
11. CALLS ON THE EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS to further study the situation of LGBTI people by compiling high-quality statistics based on the most reliable methods.

12. STRESSES that, when promoting actions to advance LGBTI equality, the Commission should continue to cooperate with the Member States, as well as with the European Union Agency for Fundamental Rights (FRA) and other relevant EU agencies, civil society and, within the powers conferred on it in the Treaties, with relevant international organisations including the Council of Europe, the OECD and the UN.
13. INVITES THE EUROPEAN COMMISSION AND THE MEMBER STATES to reinforce and continue to support the action of institutional mechanisms, including national Equality Bodies, which are crucial instruments for the non-discrimination of LGBTI persons, as well as that of the European Network of Equality Bodies (Equinet).

INVITES THE MEMBER STATES

14. To consider working together with the European Commission with regard to its List of actions to advance LGBTI equality, making full use of the High Level Group on Non-Discrimination, Equality and Diversity to discuss relevant issues and explore ways to accelerate progress, fully respecting the Member States' competences, national identities and constitutional traditions; and
15. To take action to combat discrimination on the grounds of sexual orientation and gender identity.

References

1) European Parliament

European Parliament resolution of 8 September 2015 on the situation of fundamental rights in the European Union (2013-2014) (2014/2254(INI))

European Parliament resolution of 4 February 2014 on the EU Roadmap against homophobia and discrimination on grounds of sexual orientation and gender identity (2013/2183(INI))

2) Council

Guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex persons (11153/13)

3) Commission

List of actions by the Commission to advance LGBTI equality
http://ec.europa.eu/justice/discrimination/files/lgbti_actionlist_en.pdf

4) European Union Agency for Fundamental Rights

Protection against discrimination on grounds of sexual orientation, gender identity and sex characteristics in the EU -- Comparative legal analysis -- Update 2015

<http://fra.europa.eu/en/publication/2015/lgbti-comparative-legal-update-2015>

European Union lesbian, gay, bisexual and transgender survey, 2014

http://fra.europa.eu/sites/default/files/fra-eu-lgbt-survey-main-results_tk3113640enc_1.pdf