



Observatory for
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in Europe

Drafting National LGBTIQ* Equality Action Plans

Framework and demands at European level
and in Germany

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Abstract

National Action Plans have been established as a central and effective tool for the implementation of values codified in international law at national levels, such as the protection of human rights. In the area of human rights of LGBTIQ* persons, it can be observed throughout Europe that the implementation of National Action Plans consistently and systematically advances equality of LGBTIQ* persons.

This expertise introduces the tool National Action Plan and summarises demands at European and German level for a National LGBTIQ* Equality Action Plan in Germany. Emphasis lies on a process analysis of drafting, implementation and evaluation as well as on success factors regarding these steps.

This publication is part of a series of publications by the Observatory for Sociopolitical Developments in Europe on behalf of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth on the equality of LGBTIQ* persons in Germany. It contributes to the preparation of a National Action Plan on LGBTIQ* rights, which is included as a project of the Federal Government under Chancellor Olaf Scholz in its coalition agreement 2021-2025. While this expertise does not elaborate on the content of specific key topics and concrete measures for a National LGBTIQ* Equality Action Plan, the Working Papers forming other parts of this series focus on combatting hate crime against LGBTIQ* persons (Molter 2022) as well as equality for rainbow families (Lange 2022). They present the need for action and solution approaches in Germany and insights from other European countries.

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1 Introduction

National Action Plans¹ are an international instrument to jointly concretise and promote values codified in international law – such as the protection of human rights in all countries – in accordance with the respective national circumstances. They have thus become established as a central and effective instrument for the implementation of human rights. In terms of human rights and equality of LGBTIQ* persons, it can be observed throughout Europe that the implementation of National Action Plans is an effective measure to consistently and systematically advance equality of LGBTIQ* persons. In particular, National Action Plans complementing legal measures contribute to promoting a culture of equality and supporting measures for greater acceptance of LGBTIQ* persons and their concerns and needs in the public sphere.

Definition: LGBTIQ*

LGBTIQ* is an abbreviation for the terms lesbian, gay, bisexual, trans*, inter* and queer and thus an abbreviation for diverse sexual orientations² and gender identities³. Trans* refers to persons who feel that they do not or do not exclusively correspond to the gender they were assigned at birth. Inter* refers to persons with variations in sexual characteristics⁴. Queer is a collective term for all non-heteronormative⁵ and non-cisgender lifestyles and identities and is representative of all of them here.⁶ The asterisk * represents the diversity of gender and sexual orientations as well as the processuality and incompleteness of gender orientation and positioning (Füty 2019: 17 quoted after Dionisius 2020: 78).

The **aim of this expertise** is to summarise the conceptual framework of National Action Plans and to provide an overview of demands at European and German level for a National LGBTIQ*

¹ Throughout this document, the term “National Action Plan” will be used, even though the terminology may differ in some countries or contexts (e.g. “Strategy” or “Framework”). Despite these differences in terminology, the underlying concept is the same. For more details, see Chapter 2 [National Action Plans as a general concept](#).

² **Sexual orientation** refers to “each person’s capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender” (Yogyakarta Principles 2007: 8).

³ **Gender identity** refers to “each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth [...]” (ibid.).

⁴ **Sexual characteristics** are “each person’s physical features relating to sex, including genitalia and other sexual and reproductive anatomy, chromosomes, hormones, and secondary physical features emerging from puberty” (Yogyakarta Principles 2017: 6).

⁵ **Heteronormativity** refers to “[...] the norms of heterosexuality and binary sexuality and understands them as a social power relationship [...]. Cisnormativity is part of this heteronormative power relationship and refers to the norm of locating oneself within the gender/sex assigned at birth” (Füty 2019: 17 quoted after Dionisius 2020: 78; own translation).

“**Cis**” is Latin and means “on this side” and, in the context of the term “cisgender”, refers to persons whose gender orientation corresponds to the gender/sex they were assigned at birth” (own translation, ibid., p. 80).

⁶ For example for **non-binary persons**: non-binary is “an umbrella term for all genders that are not purely male or purely female. [...] However, only one’s own perception is decisive for the identification as non-binary” (Queerulant_in 2019: 37; own translation).

Equality Action Plan in Germany. The focus lies in particular on the process of drafting, implementing and evaluating National Actions Plans as well as on success factors already identified at international and European level. The demands at the German national level are embedded in this context and highlight the first steps towards the development of a National LGBTIQ* Equality Action Plan in Germany.

This expertise focuses on the process of implementing a National Action Plan and addresses the following questions: What are National Action Plans and how can they contribute to the promotion of human rights and equality of LGBTIQ* persons? How does the process of drafting and implementing National Action Plans work and what success factors have already been identified? What demands exist at European level for the establishment of National LGBTIQ* Equality Action Plans? What demands exist at the German level and what concrete factors can be derived from this for the first steps towards the drafting of a German National LGBTIQ* Equality Action Plan?

This publication is part of a **series of publications by the Observatory for Sociopolitical Developments in Europe** on behalf of the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth on the equality of LGBTIQ* persons in Germany. It contributes to the preparation of a National Action Plan on LGBTIQ* Rights, which is included as a project of the Federal Government under Chancellor Olaf Scholz in its coalition agreement 2021-2025. While this expertise does not elaborate on the content of specific key topics and concrete measures for a National LGBTIQ* Equality Action Plan, the Working Papers forming other parts of this series focus on combatting hate crime against LGBTIQ* persons (Molter 2022) as well as equality for rainbow families (Lange 2022). They thus present the need for action and solution approaches in Germany and insights from other European countries.

This expertise first considers the fundamental principles of the concept and the mode of action of National Action Plans in general, and with a focus on LGBTIQ* rights in particular ([Chapter 2](#)). Furthermore, the necessity of developing National LGBTIQ* Equality Action Plans based on the demands of the Council of Europe, the European Union and European civil society is derived ([Chapter 3](#)). In the next step, the process of implementing a National Action Plan is analysed, supplemented by success factors that have been identified internationally and at the European level. In this context, the problem of insufficient equality data is taken into particular consideration ([Chapter 4](#)). Finally, previous demands and calls on the way towards a National LGBTIQ* Equality Action Plan in Germany are reviewed and concretised with regard to the first drafting steps of such a National Action Plan ([Chapter 5](#)).

2 National Action Plans as a general concept

2.1 Origins as an instrument for the promotion of human rights

National Action Plans are policy documents in which a state articulates priorities and actions that it will adopt to support the implementation of international, regional, or national obligations and commitments with regard to a given policy area or topic (DIHR/ICAR 2017: 11).

The World Conference on Human Rights organised by the United Nations in Vienna in 1993, with its Final Declaration and the Vienna Programme of Action⁷, is one of the major milestones in the worldwide protection of human rights. The concept of National Human Rights Action Plans, as it is understood today⁸, was developed at this meeting and a recommendation⁹ to adopt corresponding National Action Plans was issued to the countries. According to information by the European Union Agency for Fundamental Rights (FRA), at least 44 countries worldwide have adopted general National Human Rights Action Plans, ten of which are EU Member States (FRA 2019: 2f.).

The concept of National Human Rights Action Plans has thus been established as a key instrument for the implementation of human rights, alongside the establishment of national human rights institutions¹⁰ (UN 2002: 2). In addition to general human rights action plans, action plans for a more targeted and systematic implementation of specific human rights issues exist as well, for instance regarding violence against women¹¹, business and human rights¹², women, peace and security¹³, racism¹⁴, persons with disabilities¹⁵ and also the rights of LGBTIQ* persons¹⁶.

⁷ Vienna Declaration and Programme of Action, Doc. No. A/CONF.157/23, 12 July 1993 <https://www.ohchr.org/en/professional-interest/pages/vienna.aspx>.

⁸ The first mention of National Action Plans in the context of international human rights can be traced back to the International Covenant on Economic, Social and Cultural Rights (UN Social Covenant for short) of 1966. However, the concept was not taken up and operationalised again until the 1993 World Conference (FRA 2019: 3).

⁹ "The World Conference on Human Rights recommends that each State considers the desirability of drawing up a national action plan identifying steps whereby that State would improve the promotion and protection of human rights" Part II, Paragraph 71.

¹⁰ In Germany: <https://www.institut-fuer-menschenrechte.de/>.

¹¹ See UN Women (2012) Handbook for National Actions Plans on Violence Against Women: includes good practice examples from countries with respective Action Plans: <https://www.un.org/womenwatch/daw/vaw/handbook-for-nap-on-vaw.pdf>.

¹² See UN Working Group on Business and Human Rights (2016) Guidance on National Action Plans on Business and Human Rights: https://www.ohchr.org/Documents/Issues/Business/UNWG_NAPGuidance.pdf.

¹³ Database of Action Plans for the implementation of UN Resolution 1325 on Women, Peace and Security: <http://1325naps.peacewomen.org/>, see also the respective toolkit for the development of National Action Plans: https://www.peacewomen.org/assets/file/national_action_plan_development_toolkit.pdf.

¹⁴ See <https://www.enar-eu.org/Research-by-ENAR-other-NGOs-and-research>.

¹⁵ List of National Action Plans and strategies for the implementation of the UN Convention on the Rights of Persons with Disabilities: <https://www.un.org/development/desa/disabilities/strategies.html>.

¹⁶ More details in the Chapter [Action Plans focussing on LGBTIQ* Persons](#).

2.2 How can National Action Plans contribute to promoting human rights?

In 2002, the United Nations High Commissioner for Human Rights (OHCHR) published a Handbook on National Action Plans for the Promotion of Human Rights. The handbook was developed to assist governments, civil society organisations, national human rights institutions, the judiciary and the business sector, as well as all persons working on and with National Action Plans for human rights (UN 2002: 14). It continues to attract considerable attention and interest as it provides a comprehensive and basic overview of the steps involved in the preparation of such action plans.¹⁷

Underlying the concept of National Action Plans is the recognition that there are general principles, which the majority of the international community can agree upon. The basic purpose of National Human Rights Action Plans, according to the handbook, is to improve the promotion and protection of human rights at the national level. In order to achieve this strategic goal, action plans are to embed the issue of human rights in the respective political, cultural, historical and legal context of a given country, thus enabling governments and public bodies/institutions to give concrete expression to the overarching objective by means of programmes and measures for practical implementation (UN 2002: 8f.).

This means that there is no universal approach to developing and implementing National Action Plans that can be applied to all countries. Nevertheless, National Action Plans in their various forms have the following decisive advantages over, for example, the implementation of individual measures without an overarching strategic framework:

- A comprehensive consideration of the prevailing situation is initiated to identify needs, thus increasing commitment in government and among the public due to greater visibility of the issue.
- Achievable objectives and realistically implementable measures to improve the situation are set.
- Being an instrument for government and public institutions, the plans contribute towards promoting
 - the rule of law,
 - a tolerant, harmonic and diverse society,
 - an improvement of the situation in all areas of life, for example through programmes in education, health, housing, nutrition, social services or administration of justice.
- A broad group of people and organisations are mobilised to promote human rights, thus ensuring the inclusion of particularly vulnerable groups.
- National and international resources are made available, for instance to support countries in need of resources, training and expertise when it comes to implementing human rights objectives (UN 2002: 9f.).

¹⁷ For instance in FRA 2019, Council of Europe 2014, DIMR 2019.

However, setting up a National Action Plan is not the end of the project, but only the beginning. The advantages of systematising human rights protection with the help of an action plan can only be fully realised if the implementation of this plan really allows for this. Essential success factors for this are, among others, the involvement of civil society, adequate provision of financial and human resources, and the political will to translate the objectives into concrete (i.e. also legislative) measures.¹⁸

Preparation and drafting of a National Action Plan requires comprehensive planning as well as human and financial resources. The concrete design depends strongly on national circumstances and objectives. There cannot be a one-size-fits-all approach. When looking at different National Action Plans, it becomes clear that each plan follows its own national characteristics. The orientation can vary on a spectrum between more general and more issue-related action plans. The plans can have a strong strategic component or rather take the form of a list of measures.

General Human Rights Action Plans promote the strategic objective of strengthening and promoting human rights across the board and therefore address cross-cutting issues effectively and coherently. They can serve as an “umbrella” to pave the way for thematic action plans on individual aspects of human rights. Difficulties of such a broad approach may include covering the entire breadth of civil society groups, the risk of remaining too vague and superficial, and potential problems when it comes to organising evaluation and funding (FRA 2019: 13).

Thematic or issue-related plans go much deeper and focus more on specific concerns and groups, their impact is easier to evaluate, and the allocation of funding and responsibilities is more clear-cut. Furthermore, it may be easier to generate attention for a narrower topic than for a complex field of issues. However, this carries the risk that cross-cutting issues as well as the general context of human rights are neglected or not perceived sufficiently. Fragmentation into too many individual plans might also cause inconsistencies when it comes to indicators, consultations with civil society and follow-up measures (FRA 2019: 13).

2.3 Action Plans focussing on LGBTIQ* persons

For the area of LGBTIQ* rights, the adoption of National Action Plans has proven to be an effective measure to consistently and systematically advance equality for LGBTIQ* persons.

Basics: Human rights and LGBTIQ* (Yogyakarta Principles)

The Yogyakarta Principles, developed by human rights experts in 2007, specify and interpret existing international human rights law by means of 29 principles relating to sexual orientation, gender identity, gender expression and gender characteristics. In 2017, nine additional

¹⁸ For more details, see Chapter [Conception of a National Action Plan: Processes and factors for success](#).

principles were added and clarified in relation to gender expression¹⁹ and gender characteristics. The 38 principles²⁰ are seen as the first systematic overview for guaranteeing human rights for LGBTI persons (HES 2020: 8; HES 2008: 7).

In a study²¹ published in 2020, the **Organisation for Economic Co-operation and Development** (OECD) examined the extent to which its Member States ensure equality for LGBTI persons by law and what complementary measures could be taken to strengthen their rights and opportunities.

National Action Plans are mentioned in the study as a complementary measure to legal provisions for securing the rights and opportunities of LGBTI persons. In particular, these plans can help promoting a “culture of (gender) equality” as well as measures for the acceptance of LGBTI persons and their concerns in the public sphere, the study reads. The OECD’s data collection found a significant positive correlation between legal equality and acceptance of LGBTI persons. Furthermore, the collected data shows that legal change towards legal equality for LGBTI persons changed attitudes towards them in the general population. However, social inclusion cannot be achieved through legal regulations alone. It is therefore crucial that action plans include well-designed public awareness measures. In European countries, this became particularly evident with the introduction of same-sex marriage, which led to an increase in acceptance of homosexuality (OECD 2020: 13; 117).

The results of the study show that countries currently (as of 2019) implementing action plans including LGBTI equality measures:

- have a higher-than-average level of LGBTI legal equality measures and progress over the past two decades; and
- are actively involved in the implementation of complementary actions alongside legal equality measures.²²

¹⁹ **Gender expression** is understood “as each person’s presentation of the person’s gender through physical appearance – including dress, hairstyles, accessories, cosmetics – and mannerisms, speech, behavioural patterns, names and personal references” (Yogyakarta Principles 2017: 6; Preamble). This presentation “may or may not conform to a person’s gender identity” (ibid.). Gender expression is thus part of the definition of gender identity.

²⁰ The Yogyakarta Principles plus 10: http://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf.

²¹ OECD (2020): Study “Over the Rainbow? The Road to LGBTI Inclusion”

²² OECD (2021): Presentation “Legal and Policy Goals critical for LGBTI equality – National Action Plans matter”, p. 3.

The **European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association** (ILGA-Europe), an umbrella organisation of European LGBTIQ* civil society organisations, compiles the annually published Rainbow Index²³ which – with the support of national activists – surveys the situation of LGBTI persons in 49 European and five Central Asian countries over the period of the previous year. The Rainbow Index examines 65 criteria in six categories: 1) equality and non-discrimination, 2) family²⁴, 3) hate crimes and hate speech²⁵, 4) legal recognition and bodily integrity, 5) public space and civil society, and 6) asylum.

ILGA-Europe emphasises that action plans provide crucial support to the process of implementing LGBTI rights by breaking them down into measurable individual actions and are thus a good tool to hold state actors accountable. It is also important to note that anti-discrimination legislation alone does not always ensure equal treatment: complementary measures such as awareness-raising campaigns are also necessary, the organisation underlines. In addition to equality measures in laws and policies, action plans thus also contribute to securing the equality of LGBTI persons in society.²⁶

Data from the ILGA-Europe Annual Activity Reports 2020 and 2021 show that EU Member States that have developed comprehensive National Action Plans and are currently implementing them with concrete measures consistently rank in the top ten out of the 49 countries overall. EU Member States with National Action Plans explicitly covering the areas of sexual orientation, gender identity and gender characteristics have also performed very well in the remaining 62 criteria of the Index.²⁷

A list of all relevant documents can be found in the annex [Overview: Documents considered](#).

LGBTIQ* Equality Action Plans within the European Union (2021)²⁸

In 2021, ten²⁹ of the 27 EU Member States had an ongoing LGBTIQ* Equality Action Plan at national level in place. A comparison shows that different action plan models are implemented, depending on national circumstances. For example, Spain, Belgium and Germany have regional action plans and no nation-wide overarching document. In the majority of countries, the respective action plan focuses exclusively on the needs of LGBTIQ* persons (France, Ireland,

²³ Rainbow Index website: <https://www.rainbow-europe.org/>.

²⁴ See in more detail: Lange 2022.

²⁵ See in more detail: Molter 2022.

²⁶ More information: https://ilga-europe.org/old_website/what-we-do/our-advocacy-work/equality-through-action-plans.

²⁷ ILGA-Europe [Annual Activity Report 2020](#), [Annual Activity Report 2021](#). Further information see footnote 28.

²⁸ In more detail: Publication by the Observatory “National LGBTI Action Plans in the European Union” (*Nationale LSBTI-Aktionspläne in der Europäischen Union*), available at: <https://beobachtungsstelle-gesellschaftspolitik.de/f/6a77c27fee.pdf>. [in German]

²⁹ Denmark, Estonia, Finland, France, Ireland, Luxembourg, Malta, Netherlands, Portugal, Sweden.

Luxembourg, Malta, Portugal, Sweden). Estonia includes aspects of sexual orientation in a more general welfare development plan; Finland has included aspects of gender identity and gender characteristics in a general Gender Equality Action Plan and the Netherlands strategy covers aspects of sexual orientation, gender identity and gender characteristics in the Dutch gender and LGBTI equality plan. The Portuguese LGBTI Action Plan is part of a larger national strategy for equality and non-discrimination aligned with the objectives of the 2030 Agenda.

3 EU Level: Calls for National Action Plans with focus on the rights of LGBTIQ* persons

The instrument of National Action Plans has been established at the international level as a central tool to ensure the promotion and respect of human rights. Taking a look at other European countries shows that in the area of LGBTIQ* rights, the adoption of National Action Plans has proven to be an effective measure to consistently and systematically advance equality for LGBTIQ* persons. See also: [National Action Plans as a general concept](#).

At European level, the concrete demand to draft a National Action Plan focusing on the rights of LGBTIQ* persons derives from two documents in particular: the Recommendation of the Committee of Ministers to the Member States of the Council of Europe on measures to combat discrimination on grounds of sexual orientation or gender identity (CM/REC(2010)5) and the LGBTIQ Equality Strategy 2020–2025 of the European Commission. In addition, European civil society also supports the adoption of National Action Plans.

3.1 Council of Europe

On the level of the Council of Europe, the **Recommendation of the Committee of Ministers to member states to combat discrimination on grounds of sexual orientation and gender identity, CM/Rec (2010)5**³⁰ has been adopted in 2010. This recommendation was the first international instrument to specifically address the issue of discrimination on the basis of sexual orientation and gender identity and continues to be an essential basis for work on sexual orientation and gender identity issues in Europe today.

The document recommends that Member States “ensure that legislative and other measures are adopted and effectively implemented to combat discrimination on grounds of sexual orientation or gender identity” (CM/REC(2010)5, point 2). The recommendation does not explicitly refer to National Action Plans, but the Council of Europe has made it clear in other publications that National Action Plans are to be seen as a complementary or accompanying measure to legislative action and are an effective means of improving fundamental rights protection at the national level.³¹

The **Sexual Orientation and Gender Identity Unit** (SOGI Unit) in the Council of Europe was established in 2014 in accordance with the Committee of Ministers’ Recommendation CM/Rec (2010)5 and has been transformed into a corresponding Working Group (Working Group on SOGI, GT-ADI-SOGI) within the framework of the Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI) since 2022.³² The Working Group provides a contact point for technical assistance and expertise to Member States and helps to improve the legal and institutional frameworks. It also supports Member States in capacity building and in the exchange

³⁰ https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cf40a.

³¹ For instance in Council of Europe (2016).

³² More information: <https://www.coe.int/en/web/committee-antidiscrimination-diversity-inclusion/-/cdadi-s-new-terms-of-reference-2022-2025>.

of best practices.³³ Furthermore, the Working Group regularly prepares reports on the implementation of the measures to combat discrimination on the grounds of sexual orientation or gender identity mentioned in Recommendation CM/Rec (2010)5.³⁴

Since 2020, the **European Governmental LGBTI Focal Points Network** (EFPN) has also been based at the Sexual Orientation and Gender Identity Unit for coordination purposes. This network is an intergovernmental working group of the responsible persons in the respective national governments, originally established in 2004, which aims to promote the human rights of LGBTI persons in the Council of Europe Member States. The establishment of the network goes back to an initiative of the Dutch presidency of the Council of the European Union, which took the project of setting up a National LGBTIQ* Equality Action Plan as an occasion for the cross-European exchange of practical examples and expertise.³⁵

Beyond support with regard to Recommendation CM/Rec (2010)5, the Council of Europe regularly addresses various aspects of the human rights of LGBTI persons:

- The European Court of Human Rights, for example, provides a continuously updated summary and guide of case law on various articles of the European Convention on Human Rights in relation to LGBTI rights (2021)³⁶,
- and the LGBTI Taskforce of the European Commission against Racism and Intolerance (ECRI) has compiled a factsheet on, inter alia, the existing legal framework, data collection, policies, prevention and equality bodies (2021)³⁷.
- The Committee on Equality and Non-Discrimination of the Parliamentary Assembly of the Council of Europe adopted a report on the increase of hatred against LGBTI persons and anti-gender narratives in 2021, which also contains a concrete proposal for a relevant resolution (2021)³⁸.

³³ More information: <https://www.coe.int/en/web/sogi>.

³⁴ See for instance the review of Recommendation CM/Rec (2010)5 of 2019: <https://rm.coe.int/combating-discrimination-on-grounds-of-sexual-orientation-and-gender-i/16809fb2b8>.

³⁵ More information: <https://www.coe.int/en/web/sogi/european-governmental-lgbti-focal-points-network>, <https://beobachtungsstelle-gesellschaftspolitik.de/fi/63678c8379.pdf>.

³⁶ Guide on the case law of the European Convention on Human Rights with regard to LGBTI rights: https://www.echr.coe.int/Documents/Guide_LGBTI_rights_ENG.pdf.

³⁷ Factsheet on LGBTI Issues: <https://rm.coe.int/ecri-factsheet-lgbti-issues/1680a1960a>.

³⁸ PACE Report denounces the rise in hatred against LGBTI persons: <https://www.coe.int/en/web/sogi/-/pace-report-denounces-the-rise-in-hatred-against-lgbti-persons>.

3.2 European Union

As early as 2014, the European Parliament called on the European Commission to develop a policy roadmap to protect the fundamental rights of LGBTI persons. As a result, the European Commission presented a list of actions to advance LGBTI equality for the period 2015-2019.³⁹ The **European Commission's LGBTIQ Equality Strategy 2020-2025**⁴⁰, adopted in 2020, is the first overarching strategic document on equality for LGBTIQ persons at European Union level. Strategies have no legal effect and are not binding on Member States. However, they have more political weight and thus exert more political pressure than a roadmap or a list of actions. The Commission can now use the LGBTIQ Equality Strategy, for instance, as a justification for more far-reaching initiatives in the field of LGBTIQ rights and their mainstreaming as a cross-cutting issue beyond the field of equality and anti-discrimination policies.

The strategy is based on four main pillars:

1. Tackling discrimination against LGBTIQ people,
2. Ensuring LGBTIQ people's safety,
3. Building LGBTIQ inclusive societies,
4. Leading the call for LGBTIQ equality around the world.

Under “5. Delivering on the Strategy”, the Commission calls on Member States to “develop their own action plans on LGBTIQ equality”. The aim of these National Action Plans is to “step up protection against anti LGBTIQ discrimination, to ensure follow-up at the national level of the objectives and actions set out in this strategy and to complement them with measures to advance LGBTIQ equality in areas of Member State competence”. The European Commission supports Member States in this process via the LGBTIQ Equality Subgroup of the High Level Group on Non-Discrimination, Equality and Diversity. The subgroup is to monitor the progress of the implementation of the strategy in the Member States, also with regard to the preparation of action plans, and to present a mid-term review in 2023 (“5. Delivering on the Strategy”). On 17 May 2022, the LGBTIQ Equality Subgroup published their **Guidelines for Strategies and Action Plans to Enhance LGBTIQ Equality**⁴¹. See in more detail: [Success factors with regard to National Action Plans for human rights of LGBTIQ* persons](#).

The European Union regularly addresses the issue of acceptance and equality of LGBTIQ* persons and provides relevant information, for example via:

- the briefing on the rights of LGBTI persons in the EU by the European Parliament's scientific service (2021)⁴²

³⁹ For more information, see Wittenius (2020) “The status quo of LGBTI policy in the European Union” in the Observatory's newsletter 1/2020: Perspectives on the new LGBTI strategy announced by the European Commission.

⁴⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020DC0698&qid=1607962873505&from=EN>.

⁴¹ <https://tgeu.org/wp-content/uploads/2022/06/20220525-guidelines-for-strategies-and-action-plans-to-enhance-LGBTIQ-equality.pdf>.

⁴² Briefing on the rights of LGBTI persons in the EU by the European Parliament's scientific service: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/690601/EPRS_BRI\(2021\)690601_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/690601/EPRS_BRI(2021)690601_EN.pdf).

- or in the special edition of the Eurobarometer on the social acceptance of LGBTIQ persons and perceptions on discrimination based on sexual orientation, gender identity and sex characteristics (2019)⁴³.
- In 2020, the European Union Agency for Fundamental Rights published the results of its second comprehensive study since 2012 on the state of LGBTI equality in the European Union, entitled “A long way to go for LGBTI equality”⁴⁴. In it, the Agency urges Member States to adopt and implement comprehensive action plans that advance the rights of LGBTI persons in all spheres of life in order to combat discrimination against LGBTI persons (FRA 2020: 18; 20). Currently, the European Union Agency for Fundamental Rights is – together with experts and stakeholders – developing a third edition of the survey on the situation of LGBTI persons in Europe. Data collection is scheduled to take place in 2023⁴⁵.

3.3 European civil society

At European level, there are several umbrella organisations of national and regional LGBTIQ* associations that advocate for the interests of LGBTIQ* persons at international level, working closely with the institutions of the European Commission and the Council of Europe, among others. Furthermore, they support their national member organisations, for instance in strategic process management and strengthening their structures through assistance with fundraising, organisational development and strategic communication.

Among the largest organisations are

- **ILGA-Europe**⁴⁶, an umbrella organisation for over 600 LGBTIQ* organisations from 54 European and Central Asian countries,
- **Transgender Europe (TGEU)**⁴⁷, an umbrella organisation with currently 183 organisations in 47 European and Central Asian countries with a focus on issues and needs of trans persons,
- the **Organisation Intersex International Europe (OI Europe)**⁴⁸, a global network of intersex organisations,

⁴³ Special edition of the Eurobarometer on the social acceptance of LGBTIQ people and perceptions on discrimination based on sexual orientation, gender identity and sex characteristics: https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combatting-discrimination/lesbian-gay-bi-trans-and-intersex-equality/eurobarometer-social-acceptance-lgbtiq-people-eu-2019_en.

⁴⁴ <https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results>.

⁴⁵ https://fra.europa.eu/sites/default/files/2022-01/PD_2022-2024_EN.pdf, p.42.

⁴⁶ ILGA-Europe – European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association: <https://www.ilga-europe.org/>.

⁴⁷ Transgender Europe: <https://tgeu.org/about-us/>.

⁴⁸ Organisation Intersex International Europe: <https://oiieurope.org/about/>.

- the **Eurocentralasian Lesbian* Community (EL*C)**⁴⁹, a lesbian feminist intersectional network for the visibility of the life situation of lesbian women, and
- the **International LGBTIQ Youth & Student Organisation (IGLYO)**⁵⁰, the largest global network for LGBTIQ youth and students with 95 member organisations in over 40 countries.

ILGA-Europe has been monitoring and analysing the adoption and implementation of National Action Plans in Europe within the framework of its Rainbow Index on a regular basis since 2009⁵¹. Furthermore, the organisation actively supports its member organisations in advocating for the development of such action plans and in corresponding consultations with national governments⁵². TGEU states in a report on human rights and gender identity that equality for trans persons will not be achieved without the adoption of comprehensive and specific action plans, ideally at national rather than regional or local level. TGEU also monitors the status of trans rights in Europe and Central Asia with its own Trans Rights Map.⁵³ OII Europe presents an annual overview of good practices in the field of equality for intersex persons.⁵⁴

A list of all relevant documents can be found in the annex [Overview: Documents considered](#).

⁴⁹ Eurocentralasian Lesbian* Community: <https://europeanlesbianconference.org/about-elc/>.

⁵⁰ IGLYO – The International Lesbian, Gay, Bisexual, Transgender, Queer and Intersex (LGBTQI) Youth & Student Organisation <https://www.iglyo.com/network/>.

⁵¹ See [Action plans for the equality of LGBTIQ* persons](#), Rainbow Index website: <https://www.rainbow-europe.org/>.

⁵² More information: https://ilga-europe.org/old_website/what-we-do/our-advocacy-work/equality-through-action-plans.

⁵³ TGEU Human Rights and Gender Identity – Best Practice Catalogue (2016): <https://tgeu.org/human-rights-gender-identity-best-practice-catalogue/>, p. 43; Trans Rights Maps: <https://tgeu.org/tag/trans-rights-europe-map/>.

⁵⁴ OII Europe Good Practice Map: <https://oiieurope.org/library-en/map/>.

4 Conception of a National Action Plan: Processes and success factors

Each country is itself competent and responsible for ensuring and implementing the promotion and respect of human rights. National Action Plans as an instrument of international human rights protection – and also specifically in relation to the strengthening and protection of the human rights of LGBTIQ* persons – are strongly endorsed at the international level and, for example, demanded by the European Union from its Member States. See [EU Level: Calls for National Action Plans with focus on the rights of LGBTIQ* persons](#). At the national level in Germany, politicians and civil society also demand the establishment of such a plan aimed specifically at the concerns and rights of LGBTIQ* persons. See [Germany: Starting point and first steps for the drafting of a National Action Plan with a focus on the rights of LGBTIQ* persons](#).

A wide range of assistance is available via handbooks and guidelines, best practice exchanges and data collection by international organisations such as the United Nations, the Organisation for Economic Co-operation and Development and the Council of Europe, the European Union and its agencies or national and international civil society organisations. In the following, fundamental steps for the drafting, implementation and evaluation of a National Action Plan as well as concrete evidence-based success factors are outlined. A list of all relevant documents can be found in the annex [Overview: Documents considered](#).

4.1 Process management cycle

The UN Handbook on National Action Plans for the Promotion of Human Rights characterises National Action Plans as both an outcome and a process, both dimensions being equally important (UN 2002: 13). Accordingly, the respective document to be drafted is as important as the process of implementation of all its phases. Based on the handbook as well as other relevant literature from the European Union and the Council of Europe on the implementation of action plans to promote human rights and democracy, the Danish Institute for Human Rights⁵⁵, together with the International Corporate Accountability Roundtable, has divided the life cycle of a National Action Plan into five main phases (DIHR/ICAR 2017: 18; 56):

⁵⁵ Project: One stop shop for information regarding the development of National Action Plans <https://globalnaps.org/about/>.

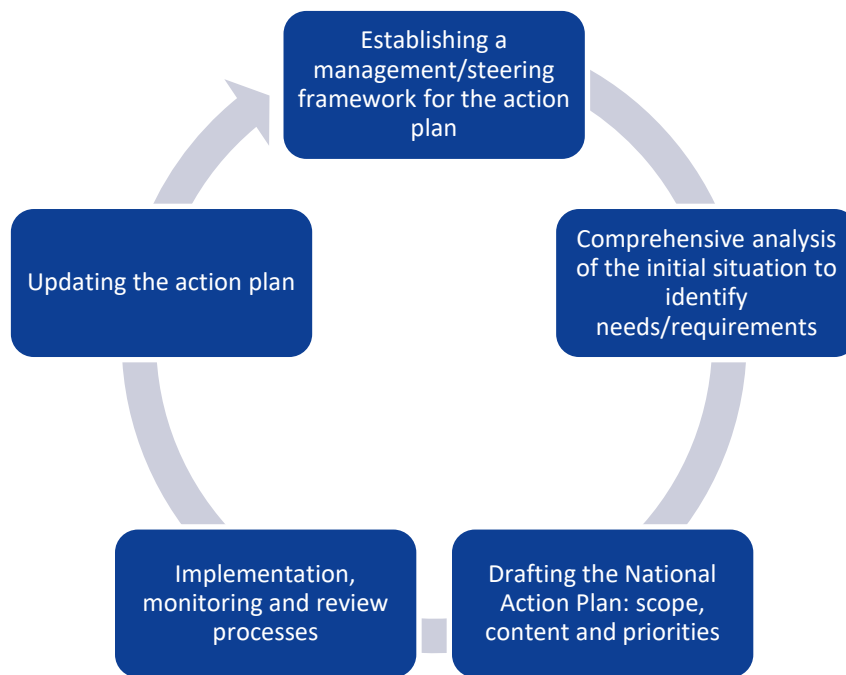


Illustration 1: Process management cycle: National Action Plan

Step 1: Management and resources

The first key precondition for working on an action plan is the declared political will to ensure and prioritise the process of developing and implementing this plan in the long run. Financial resources must be allocated not only for the preparation and drafting, but also for the long-term implementation and monitoring processes. This includes establishing a clear division of and communication about responsibilities within a governance framework, for instance via a specific government agency. It must be ensured that a responsible body has the organisational capacity, political authority and resources necessary to develop an action plan. Furthermore, the cooperation and coordination of all government agencies concerned via this hub must be ensured. At the beginning, a plan for the development of the action plan, including a timetable, milestones and opportunities for participation, should be communicated transparently to the public. To ensure the participation of all relevant stakeholders, especially marginalised and vulnerable groups, it is helpful to conduct a stakeholder mapping with a corresponding and adequate focus (DIHR/ICAR 2017: 19-25).

Step 2: Requirements assessment

The requirements assessment⁵⁶ is intended to analyse the current status of the implementation of certain rights with regard to legal and political gaps and shortcomings. A combination of

⁵⁶ In the specific context of the UN Guiding Principles on Business and Human Rights, this requirements assessment is called a “National Baseline Assessment” and is a predefined process. However, the procedures and the objectives can be applied universally.

quantitative methods, e.g. existing data or new data collected through surveys, and qualitative methods such as interviews with experts and expert groups can be used to do so. A systematic requirements assessment should be comprehensive and take into account all relevant areas and cross-cutting issues. The assessment process and the results should be transparent for all relevant stakeholders. The results should furthermore be available prior to making important decisions on the scope, content and priority setting of the action plan (DIHR/ICAR 2017: 25-32).

Step 3: Scope, content and priorities

In principle, an action plan should cover all relevant topics and groups of people. However, the previous requirements assessment and the results of stakeholder participation make it possible or even necessary to prioritise certain areas. It is important that the action plan transparently presents the findings on which it is based and how the measures specifically contribute to achieving the overarching objective. In any case, an action plan should include a focus on particularly marginalised and vulnerable groups. The measures to be taken must be concrete, measurable, achievable, time-defined and relevant. Moreover, it must be ensured that reference is made to existing strategies or other relevant initiatives in order to achieve synergies as well as policy coherence and efficient use of resources (DIHR/ICAR 2017: 32-36).

Step 4: Implementation, monitoring and review processes

The publication of an action plan at the end of the third step is the beginning of the next major phase: implementation. The implementation of an action plan requires implementation planning as well as monitoring and review processes. Furthermore, the results (or interim results) of these processes are very helpful in the learning process for the creation of further action plans or in the international exchange of best practice examples.

The integration of an implementation scheme into the action plan should include information on which actor is responsible for the implementation of a specific measure and how it is to be implemented in terms of time. Monitoring, together with a periodic stocktaking of the implementation process, clarifies in which areas implementation has taken place and where there are difficulties with regard to certain measures. Problems can thus be addressed at an early stage, if necessary with the help of stakeholders, and measures can be readjusted. Opportunities for exchange at European or international level should also be utilised (DIHR/ICAR 2017: 36-46).

Step 5: Updating the action plan

In order to ensure the long-term and sustainable implementation of the strategic objectives of the action plan, the plan should be updated – in addition to the regular monitoring and after a number of periodic stocktaking. This allows to build on the successes already achieved and to consistently pursue the next steps (DIHR/ICAR 2017: 47).

4.2 Success factors

There are various handbooks and guidelines, toolkits and studies on the preparation of National Action Plans, both generally related to human rights⁵⁷ as well as focused on specific issues such as violence against women⁵⁸, business and human rights⁵⁹ or the promotion of the rights of LGBTI persons⁶⁰. Success factors can be derived from these materials and resources. A list of all relevant documents can be found in the annex [Overview: Documents considered](#).

Success factors with regard to National Action Plans for Human Rights

The 2002 Handbook on National Action Plans for the Promotion of Human Rights of the **United Nations** provides some general factors for the conception and design of an action plan that influence the effectiveness of such plans. These factors are:

- the extent of **political support**,
- a **transparent and participatory planning process**,
- the scope of the **collected data on the current/initial situation** on which the action plan is based,
- **realistic prioritisation** and **action-oriented planning**,
- a clear **definition of impact criteria** and strong **participatory mechanisms** for monitoring and evaluation,
- the adequate **provision and allocation of resources** (UN 2002: 2).

These factors already illustrate that good policy instruments are not only rooted in the creation of political documents establishing these instruments, but must also be supported and sustained by public institutions and the government, civil society organisations as well as expertise from research, practice and politics. This is also emphasised in the UN Women Handbook on the drafting of National Action Plans regarding violence against women. This document furthermore highlights that (participatory) **structures** must be in place **to implement the political objectives**. This includes, for instance, coordination and the sharing of information via networks and between state and civil society actors (UN Women 2012: 16).

The **Council of Europe** published conclusions following a workshop on the development and implementation of National Human Rights Action Plans in 2014, which cover recommendations

⁵⁷ For instance FRA 2019, Council of Europe 2014, UN 2002.

⁵⁸ For instance UN Women 2012.

⁵⁹ For instance DIHR/ICAR 2017.

⁶⁰ For instance Council of Europe 2016.

for the following selection of practical steps for the development and implementation of National Action Plans:

- Starting the process of developing a National Action Plan with a **baseline study** on the current human rights situation, in dialogue with authorities, civil society, national human rights institutions and other stakeholders,
- **participatory development and implementation** of the National Action Plan, **co-ordinated by a dedicated mechanism or coordination unit** with the involvement of ministries, institutions and service providers that are to implement the measures,
- creating synergies between general and issue-related action plans; **different action plans should reinforce rather than overlap or ignore each other**,
- **involving and coordinating with all levels (local, regional)** in developing, implementing and monitoring National Action Plans,
- coordination of resources with **national/local budgets** to ensure adequate funding of actions,
- ensuring **independent evaluations** following the implementation phase, which are to assess the overall impact of the National Action Plan (Council of Europe 2014: 3-8).

In 2020, the **European Union Agency for Fundamental Rights** published a report on practices and experiences in working with National Human Rights Action Plans in the EU⁶¹, summarising the (confidential) discussion of national human rights contact persons. Among others, the following success factors were identified:

- **Inclusive design** of the entire process from drafting via implementation to evaluation,
- **provision of sufficient resources** for the implementation of the measures as well as the evaluation process,
- creation of a **national communication strategy**,
- **political will and enforcement capabilities** to implement the action plan,
- **ownership of the objectives** also at the local level, by national human rights organisations and the private sector (FRA 2019: 11f.).

A study by the European Union Agency for Fundamental Rights specifically emphasises the involvement of all levels, especially the **regional/local level**, as discrimination in everyday interactions in public spaces, schools and work environments must in particular be addressed on this level (FRA 2020: 18).

⁶¹ https://fra.europa.eu/sites/default/files/fra_uploads/2020_outcome-report-wp-national-human-rights-action-plans.pdf.

Success factors with regard to National Action Plans for human rights of LGBTIQ* persons

In 2016, the **Council of Europe** published a summary report⁶² of a seminar involving national governments of Member States, national human rights organisations and civil society associations on the promotion and protection of human rights of LGBTI persons by means of National Action Plans.

The report highlights that progress in this area can take place in many different ways, whether through the adoption of an action plan, the updating of existing policies, or mainstreaming of sexual orientation and gender identity issues in broader human rights actions and commitments. In any case, it is important that the approach fits into the broader political and legal context (Council of Europe 2016: 8).

The Council of Europe summarises eight essential points for the successful implementation of National Action Plans (Council of Europe 2016: 13). Plans should be:

1. **Achievable:** realistic objectives that receive support from the respective state bodies and institutions
2. **Appropriately resourced:** necessary time, human and financial resources must be specifically devoted to the involved bodies and institutions
3. **Co-operative:** LGBTI community should be included by state bodies and institutions
4. **Comprehensive:** all areas of state responsibility that have an impact on the lives of LGBTI persons and their families must be addressed
5. **Bold:** sensitive issues (e.g. family rights, the rights of transgender persons, including legal gender recognition, or the rights of LGBTI prisoners) must be addressed
6. **Mainstreamed:** all levels and areas of government should know how an action plan will impact their responsibilities
7. **Monitored and evaluated:** breaches of human rights are monitored, the impact of the National Action Plan is evaluated, and measures are update as required
8. **Well communicated:** communication with the public is key to the success of National Action Plans, particularly in the face of opposition

The LGBTIQ Equality Subgroup of the High Level Group on Non-Discrimination, Equality and Diversity (see [European Union](#)), established by the **European Commission**, published guidelines in 2022 on the development of National Strategies and Action Plans geared towards strengthening equality for LGBTIQ persons. Based on existing data, experience and extensive discussions within the Subgroup, the guidelines developed set out five dimensions to ensure the protection of the rights of LGBTIQ persons in the European Union by means of National LGBTIQ Action Plans (EU COM 2022).

⁶² <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168066d620>.

Five dimensions for LGBTIQ Action Plans (EU COM 2022: 9):

1. Ensuring an accurate assessment of LGBTIQ equality situation in **support of evidence-based policymaking**
2. Identifying main challenges of LGBTIQ equality, **paying attention to the situation of the most vulnerable groups**
3. Setting **clear, ambitious and measurable priorities** for promoting LGBTIQ equality and awareness
4. Ensuring effective **legal protection** of LGBTIQ persons and **proper law enforcement**
5. Transparent management, leadership and co-ordination of LGBTIQ equality matters, including **mainstreaming** and **active involvement of civil society**

These points compiled by the Council of Europe and the European Commission, each based on existing data, experiences of national governments and civil society organisations in protecting and promoting the rights of LGBTIQ persons, constitute the success factors gathered by the Council of Europe, the European Union and the United Nations in relation to the preparation of National Human Rights Action Plans (see [Success factors related to National Human Rights Action Plans](#)) and concretise them with regard to specific National Human Rights Action Plans for LGBTIQ* persons. The European Commission's more recent 2022 guidelines place a particularly greater focus on separately considering the situation of vulnerable groups and on evidence-based policy-making that is firmly grounded in data about the current situation regarding LGBTIQ* equality.

4.3 Gaps in collecting and utilising equality data

At the international level, clear general procedures have been formulated, such as the steps in the process management cycle for National Action Plans ([Chapter 4.1](#)) and success factors in the implementation of National Action Plans with a focus on the rights of LGBTIQ* persons in particular ([Chapter 4.2](#)). In this respect, the issue of data collection has already been highlighted as an important component of both the requirements assessment as well as the monitoring and evaluation processes. The European Commission's guidelines state that a comprehensive overview of the data on the situation of LGBTIQ persons is the cornerstone for effective measures to improve the situation. Moreover, fact-based communication can improve the social acceptance of LGBTIQ persons. Availability and regular collection of equality data is essential for this (EU COM 2022: 10). In practice, however, it has been shown that the lack of collection or availability of equality data is often a major shortcoming in implementation at national level. According to a 2020 OECD study, (legal) measures to strengthen the rights and promote equality of LGBTI persons should be accompanied by general measures, including the collection of data on sexual orientation, gender identity and variations in sex characteristics

(OECD 2020: 171).⁶³ The following sub-chapter provides an overview of the problems in collecting and using equality data, as well as of internationally developed recommendations.

What are equality data?

The European Commission published a European Handbook on Equality Data in 2007, which was reissued in an updated version in 2016.

In it, the Commission defines equality data as “any piece of information that is useful for the purposes of describing and analysing the state of equality. The information may be quantitative or qualitative in nature. The main focus is on equality statistics, by which are meant aggregate data that reflect inequalities or their causes or effects in society. Sometimes data that are collected primarily for reasons other than equality-related purposes can be used for producing equality data” (EU COM 2016: 15).

Core principles for the collection of equality data are, among others, anonymity, voluntariness and informed consent about the purpose of the data collection and respect for the self-identification of the respondents, as well as the possibility to state several identities and/or grounds for discrimination. Furthermore, it is essential that representatives of discriminated groups are involved in the process of data collection, analysis and dissemination and that the principle of non-harming – i.e. excluding the use of data to plan or implement measures that harm or disadvantage members of vulnerable groups – is upheld (Citizens for Europe/ Vielfalt Entscheidet 2021: 19).

What are the challenges in collecting equality data? Which recommendations for data collection exist?

The High Level Group on Non-discrimination, Equality and Diversity⁶⁴, coordinated by the European Commission, established a new Subgroup on Equality Data in February 2018, coordinated by the European Union Agency for Fundamental Rights, to support Member States in collecting and using such data.⁶⁵ The subgroup has already adopted guidelines to improve the general collection and use of equality data.⁶⁶

⁶³ Further measures include: Enforcing legal provisions in the areas of combating discrimination, hate crimes and hate speech, see the Working Paper on hate crime: Molter 2022.

⁶⁴ The group consists of representatives of EU Member States and is responsible for monitoring the development and implementation of policies at EU and national level in the field of combating discrimination, promoting equality and diversity. It is coordinated by the Directorate-General for Justice (DG JUST). Further information: <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?do=groupDetail&groupID=3328>.

⁶⁵ The working group is coordinated and supported by the European Fundamental Rights Agency and aims to help Member States improving the collection and use of equality data. Further information: https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/equality-data-collection_de.

⁶⁶ Guidelines on improving the collection and use of equality data: <https://ec.europa.eu/info/sites/default/files/en-guidelines-improving-collection-and-use-of-equality-data.pdf>. In addition to the guidelines, a compendium (Compendium of practices for equality data collection: <https://fra.europa.eu/en/promising-practices-list>) was established, and a tool for Member States to examine the national situation and identify gaps in their own data collection (Diagnostic Mapping Tool, available for download at: <https://fra.europa.eu/en/themes/equality-non-discrimination-and-racism/about-compendium>) was developed.

The work of the subgroup so far shows that the Member States are confronted with different problems in the collection and use of data in the field of equality data. This is partly due to national specific contexts, though common challenges across Europe are clearly recognisable. The latter include, for instance, the lack of a coordinated and systematic approach to equality data collection, as well as insufficient resources and the resulting underestimation of the importance of equality data collection. Furthermore, there is often an imbalance in the collection of data on individual grounds of discrimination and different areas of life, which makes an intersectional view particularly challenging. There also tends to be less collection of data on discrimination based on sexual orientation and gender identity. Last but not least, the incorrect interpretation of current data protection requirements such as the General Data Protection Regulation (GDPR) is a reason for assuming that the collection of personal data such as a person's ethnic origin, religion or sexual orientation may be prohibited – which is not the case within certain limits. (EU COM 2018: 9f.)

The subgroup's guidelines on equality data comprehensively set out how EU Member States can improve data collection both institutionally and structurally, as well as in practice. The recommendations include the following areas:

Institutional and structural level:

- Mapping existing sources of equality data and identifying data gaps,
- promoting inter-institutional cooperation in the collection and use of equality data,
- establishing a data hub on equality and non-discrimination,
- building institutional capacities to collect robust and reliable equality data,
- enabling the effective use of equality data.

Practical/operational level:

- Ensuring exhaustiveness of equality data,
- embedding equality data in surveys at EU and national level,
- regular and timely collection of equality data,
- increasing the validity and reliability of equality data,
- ensuring the representativeness of equality data,
- improving the comparability of equality data (EU COM 2018: 13-22).

Equality data with a focus on LGBTIQ* persons

At EU level, the European Union Agency for Fundamental Rights has been collecting data on the state of LGBT(I) equality in the European Union since 2012. See [European Union](#).

Regarding the data situation at the national level, the Organisation for Economic Co-operation and Development stated in its 2020 study that only a small number of its Member States have integrated questions into nationally representative surveys that provide information on sexual or gender minorities. Accordingly, national policies can in most cases only draw on a limited amount of pertinent information for as long as there is a lack of thorough data collection on

sexual orientation, gender identity and variations in gender characteristics. However, this information is crucial to assess the concerns and needs of LGBTI persons and to strengthen respective policymaking (OECD 2020: 171).

In a 2017 analysis on the situation of data collection in EU Member States in relation to LGBTI persons⁶⁷, the European Commission recommends that Member States implement the following:

- Supporting data collection on LGBTI persons through national research programmes, in particular research on the experiences of transgender and intersex persons,
- integrating questions on sexual orientation, gender identity and sex characteristics within national social research surveys, including the national census,
- identifying and disseminating good practice recommendations for public and private organisations on how to collect data relating to sexual orientation, gender identity and sex characteristics,
- encouraging key actors, such as employers and schools, to collect data on homophobia and transphobic discrimination and harassment,
- establishing effective procedures for the collection of data on homophobic or transphobic hate crimes⁶⁸,
- improving the collection of data on the number of complaints of discrimination based on sexual orientation, gender identity and sex characteristics brought before equality bodies, and any judicial or administrative bodies responsible for adjudication on complaints (EU COM 2017: 22).

Examples of best practices in collecting equality data with regard to LGBTIQ*

An expert report for the Commission on Integration Capacity of the German Bundestag from 2021 states that Germany is in international and European comparison “lagging far behind” when it comes to established standards of differentiated collection of equality data (Citizens for Europe/Vielfalt Entscheidet 2021: 29). For instance, Denmark and the UK provide good examples of how such data collection can be conducted or prepared:

In the data collection period of the OECD study, **Denmark** is the only country that surveys both a question on self-identification of sexual orientation (heterosexual, homosexual or bisexual) as well as information on gender identity in at least one nationally representative survey.⁶⁹ ILGA-Europe also highlighted this comprehensive data collection in Denmark in 2020 in the

⁶⁷ European Commission (2017): Analysis and comparative review of equality data collection practices in the European Union. Data collection in relation to LGBTI People. Available at: <https://www.humanconsultancy.com/downloads/690-specific-report-on-equality-data-and-lgbti-people-pdf-1-03-mb>.

⁶⁸ See also Molter 2022.

⁶⁹ Factsheet Denmark in the OECD study Over the Rainbow: <https://www.oecd.org/denmark/OECD-LGBTI-2020-Over-The-Rainbow-DENMARK.pdf>.

context of its Rainbow Index, specifically in the SEXUS survey.⁷⁰ SEXUS is a prospective cohort study (i.e. a longitudinal comparative study between LGBTIQ* and non-LGBTIQ* persons that follows respondents over time and surveys them at regular intervals) based on a random sample of people in Denmark aged 15-89. The study is the first of its kind in the world with a strong focus on sexual health. The project's digital questionnaire covers a wide range of sexual health and quality of life topics, such as sexual identity, orientation, preferences, experiences, current behaviour, problems, dysfunctions and attitudes. The findings are based on the answers of a total of 62,675 respondents in the main sample.⁷¹

The **United Kingdom** conducted a mock survey in 2019 ahead of the 2021 population census to explore how to increase acceptance of questions about sexual orientation and gender identity. Among other things, conducting the survey digitally and asking respondents to answer the questions online and on their own are to lead to (more) truthful answers. In addition, it turned out to be essential that it was explained why the question about sexual orientation and gender identity was being asked and what the gathered data would be needed and used for (OECD 2020: 172 f.). The 2021 census then included questions on sexual orientation and gender identity for the first time. The data can be analysed, for instance, against demographic characteristics such as ethnicity or religion, employment and education status, housing situation and family circumstances, health and well-being, and geographical location.⁷² First results were published in June 2022, data and supporting commentary about sexual orientation and gender identity are scheduled for publication in November to December 2022.⁷³

⁷⁰ Factsheet Denmark in the Rainbow Index 2020: <https://www.ilga-europe.org/report/annual-review-2020/>, p.43.

⁷¹ The study is conducted by the Statens Serum Institute (Department of Epidemiological Research) and Aalborg University (Center for Sexology Research). The first report of October 2019 is only available in Danish but includes a summary of the main findings in English: <https://www.projektsexus.dk/project-sexus-in-english>.

⁷² Office for National Statistics: List of analyses on the topic of sexual orientation and gender identity that may be carried out with the data gathered in the 2021 census: <https://www.ons.gov.uk/census/censustransformationprogramme/census2021outputs/2021dataproducs/analysis/sexualorientationandgenderidentityanalysisplanscensus2021>.

⁷³ More information can be found at the official census website: <https://census.gov.uk/>, sexual orientation and gender identity: <https://www.ons.gov.uk/releases/sexualorientationandgenderidentitycensus2021inenglandandwales>.

5 Germany: Starting point and first steps for the drafting of a National Action Plan with a focus on the rights of LGBTIQ* persons

5.1 Key documents and starting point for the path towards a National LGBTIQ* Equality Action Plan

At the level of civil society in Germany, the German Lesbian and Gay Association (Lesben- und Schwulenverband, LSVD)⁷⁴ has been calling for a National Action Plan against homophobia since 2009. The green party Bündnis 90/Die Grünen and the liberal party Freie Demokratische Partei (FDP) have placed motions⁷⁵ in the Bundestag in 2019 and 2021 with the specific demand of creating a National Action Plan on LGBTIQ* issues. Furthermore, in 2020, there was a resolution by the Jugend- und Familienministerkonferenz (JFMK), the group of Ministers and Senators of the Länder responsible for child, youth and family policy, which advocates the creation of a National Action Plan on equality for LGBTIQ* persons. Civil society organisations such as the Lesben- und Schwulenverband and the Bundesverband Trans* (BVT*), the Federal Association of Trans* persons as well as the German Institute for Human Rights Deutsches Institut für Menschenrechte (DIMR) contribute to political work with statements and (policy) recommendations.

The coalition agreement between the social democratic party Sozialdemokratische Partei Deutschlands (SPD), the green party Bündnis 90/Die Grünen and the liberal party Freie Demokratische Partei of 24 November 2021 contains for the first time the concrete plan to develop a cross-departmental National Action Plan for the acceptance and protection of sexual and gender diversity. Relevant documents with core demands that call for the development of a National Action Plan in the context of motions in the Bundestag, resolutions and statements are briefly summarised below. A list of all relevant documents is available in the appendix [Motions and statements at German national level \(chronologically\)](#).

National Action Plan against Racism

In Germany, state action plans on LGBTIQ* equality have been adopted in all federal states (Länder), with the exception of Bavaria.⁷⁶ At federal level, the issues of homophobia and tran-

⁷⁴ Lesben- und Schwulenverband: <https://www.lsvd.de/de/ct/819-Kurzvorstellung-Was-macht-der-Lesben-und-Schwulenverband-LSVD> [in German], see also: Chronik Nationaler Aktionsplan gegen LSBTI-Feindlichkeit: <https://www.lsvd.de/de/ct/423-Ge-gen-Homophobie-und-Transfeindlichkeit-Nationaler-Aktionsplan-fuer-Akzeptanz-sexueller-und-geschlechtlicher-Vielfalt> [in German].

⁷⁵ With a motion, members of parliament can request the Bundestag to decide on a specific matter. The Bundestag then votes on this motion; this may (but does not have to) be preceded by a discussion in the relevant committee. In this way, the Bundestag's majority view on a political issue can be established. Likewise, the Federal Government can be requested to report to the Bundestag on experiences with a law that has been passed, to comment on substantive issues or to submit a draft law. More information: <https://www.bundestag.de/services/glossar/glossar/A/antraege-245326> [in German].

⁷⁶ Action plans on regional level (i.e. the federal states/Bundesländer) in Germany: <https://www.lsvd.de/de/ct/424-Welche-Bundeslaender-haben-Aktionsplaene-gegen-LSBTI-Feindlichkeit> [in German]. Due to the focus of this expertise on National Action Plans, action plans at regional level are not considered.

sphobia were first addressed in the National Action Plan against Racism [Nationaler Aktionsplan gegen Rassismus], which was adopted in June 2017.⁷⁷ In the lead-up to the adoption of the action plan, the Lesben- und Schwulenverband and the Bundesverband Trans* summarised their existing demands for an action plan in a joint paper.⁷⁸ These demands were included in Annex II “Protecting human rights, eliminating discrimination” of the action plan.⁷⁹ In principle, the inclusion of the topic of human rights of LGBTIQ* persons in a National Action Plan was welcomed from a civil society perspective, but the lack of concrete LGBTIQ*-related measures and objectives as well as the lack of binding commitments and monitoring mechanisms were criticised.⁸⁰

Motion: “Living diversity – launching a National Action Plan for sexual and gender diversity” (Bündnis 90/Die Grünen, 2019)

The parliamentary group of the green party Bündnis 90/Die Grünen in the Bundestag submitted the motion “Living diversity – launching a National Action Plan for sexual and gender diversity” [Vielfalt leben – Bundesweiten Aktionsplan für sexuelle und geschlechtliche Vielfalt auflegen] to the Bundestag on 15 May 2019. On 16 December 2019, a public hearing on the motion was held in the Bundestag Committee on Family Affairs, Senior Citizens, Women and Youth. The hearing also included comments from civil society and the Deutsches Institut für Menschenrechte. The Bundesverband Trans* argues that a National Action Plan could effectively protect the human rights of LGBTIQ* in Germany and is a suitable means to combat gaps in federal law with regard to equality as well as hate violence (BVT* 2019). The Deutsches Institut für Menschenrechte states that a National Action Plan is appropriate to strengthen the human rights of LGBTI persons, particularly in view of the need for human rights action and the multitude of thematic fields and responsible departments. According to the Deutsches Institut für Menschenrechte, an action plan is particularly suitable for accompanying further non-legislative measures across ministries to complement legal amendments (DIMR 2019). The Lesben- und Schwulenverband highlights the need for a National Action Plan against homophobia and transphobia in light of the increase in violent attacks and everyday exclusion.⁸¹ The Bundestag rejected the motion on 19 May 2021.⁸²

⁷⁷ Press release by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) of 14 June 2017: <https://www.bmfsfj.de/bmfsfj/aktuelles/presse/pressemitteilungen/bundesregierung-beschliesst-neuen-nationalen-aktionsplan-gegen-rassismus--116806> [in German], National Action Plan against Racism (2017): <https://www.bmfsfj.de/resource/blob/116798/5fc38044a1dd8edec34de568ad59e2b9/nationaler-aktionsplan-rassismus-data.pdf> [in German].

⁷⁸ LSVD paper Menschenrechte schützen, Diskriminierungen beseitigen [Protecting human rights, eliminating discrimination] <https://www.lsvd.de/de/ct/546-nationaler-aktionsplan-nap-menschenrechte-schuetzen-diskriminierungen-beseitigen> [in German].

⁷⁹ See LSVD et al. 2017.

⁸⁰ Joint press release of (BVT*) and LSVD of 14 June 2017: <https://www.bundesverband-trans.de/koalitionsvertrag-nicht-eingehalten-bundesregierung-erweitert-nationalen-aktionsplan-gegen-rassismus-nur-unzureichend-um-das-thema-lsbtq-feindlichkeit/> [in German].

⁸¹ <https://www.lsvd.de/de/ct/423-Chronik-Nationaler-Aktionsplan-gegen-Homophobie-und-Transfeindlichkeit> [in German].

⁸² <https://dip.bundestag.de/vorgang/.../248238> [in German].

Resolution of the group of Youth and Family Ministers for a National LGBTIQ* Equality Action Plan (Jugend- und Familienministerkonferenz, JFMK, 2020)

On 1 July 2020, the group of Ministers and Senators of the Länder responsible for child, youth and family policy in the Jugend- und Familienministerkonferenz⁸³ adopted a resolution on the adoption of a National LGBTIQ* Equality Action Plan [Verabschiedung eines Nationalen Aktionsplans zugunsten der vollständigen rechtlichen und gesellschaftlichen Gleichstellung von Lesben, Schwulen, Bisexuellen, Trans*, Inter* und queeren Menschen – LSBTIQ]. The Jugend- und Familienministerkonferenz has with this resolution clearly positioned itself and considers it “necessary to initiate and adopt appropriate measures to increase acceptance towards LGBTIQ* persons and to combat LGBTIQ* hostility”. According to the Jugend- und Familienministerkonferenz, this includes the “adoption of a National Action Plan in favour of the full legal and social equality of lesbian, gay, bisexual, trans*, inter* and queer persons – LGBTIQ*” (JFMK 2020).

Motion: “Protecting diversity – combating homophobic and transphobic hate crime” (FDP, 2021)⁸⁴

On 26 January 2021, the parliamentary group of the liberal party Freie Demokratische Partei in the Bundestag submitted the motion “Protecting diversity – combating homophobic and transphobic hate crime” [Vielfalt schützen – Homo- und transfeindliche Hasskriminalität bekämpfen], in which the group demanded a National Action Plan against homophobia and transphobia by the Federal Government. On 7 July 2021, a corresponding public hearing took place before the Committee on the Interior and Home Affairs, at which the invited experts presented their positions.⁸⁵ There was no vote in the Bundestag before the end of the last legislative period. Both the motion and the contributions of the experts focus on concrete needs in the area of hate crime: For a detailed view, we therefore refer to the Observatory’s publication Molter (2022) on the topic of hate crime.

Election programmes for the Federal Election (Bundestagswahl) 2021

Concrete demands for a National Action Plan with a focus on LGBTIQ* persons were included in the election programmes of the social democratic party Sozialdemokratische Partei Deutschlands, the green party Bündnis 90/Die Grünen, the left party Die Linke, and the liberal party Freie Demokratische Partei for the federal elections of September 2021. The corresponding demands differ in the degree of concrete details and level of commitment: Following on from the motion already submitted by the parliamentary group in the Bundestag (Bündnis 90/Die Grünen 2019), the green party calls for a nationwide interministerial action plan “Living

⁸³ The Conference of Youth and Family Ministers (JFMK) is the expert body of the ministers and senators of the German Bundesländer responsible for child, youth and family policies. It discusses and decides on important and fundamental matters of child, youth and family policy. More information: <https://jfmk.de/aufgaben/> [in German].

⁸⁴ The motion by the FDP parliamentary group was presented jointly with the motion “Effectively combating hatred and hate speech against LGBTI persons” (BT-Drucksache 19/26886) [in German] by Bündnis 90/Die Grünen. Both motions have a strong focus on hate crime: see also the Observatory’s Working Paper on hate crime against LGBTIQ* persons: Molter 2022.

⁸⁵ Experts: Bastian Finke, MANEO; Ines Karl, contact person for LGBTI at the Berlin Public Prosecutor’s Office; Marco Klingberg, VelsPol Berlin-Brandenburg e.V.; Sarah Ponti, Lesbian and Gay Association (LSVD); Cato Schirmer, LesMigraS/Lesbenberatung (Lesbian Counselling) e.V. The protocol of the hearing and further information are available at: https://www.bundestag.de/webarchiv/Ausschuesse/ausschuesse19/a04_innenausschuss/anhoerungen/845354-845354 [in German].

Diversity!” for the acceptance of sexual and gender diversity and already list core objectives and accompanying measures (Bündnis 90/Die Grünen EP 2021). The demands of the social democratic party and the left party each provide for the establishment of a National Action Plan (SPD: “National Action Plan against Homo-, Bi-, Trans- and Interphobia and Violence against LGBTIQ*”; Die Linke: “National Action Plan against LGBTIQA* Hostility and for the Acceptance of Sexual and Gender Diversity”), but do not go into more detail about the corresponding processes. The election programme of the liberal party stipulates that the party is committed to a National Action Plan against homophobia and transphobia with the aim of effectively counter-acting discrimination, insults and violence (FDP EP 2021).

Coalition agreement: “Daring to make progress – Coalition for Freedom, Justice and Sustainability” (SPD, Bündnis 90/Die Grünen, FDP, 2021)

The coalition agreement [Koalitionsvertrag: Mehr Fortschritt wagen – Bündnis für Freiheit, Gerechtigkeit und Nachhaltigkeit] between the social democratic party Sozialdemokratische Partei Deutschlands, the green party Bündnis 90/Die Grünen and the liberal party Freie Demokratische Partei of 24 November 2021 contains the concrete intention: “In order to counter queer hostility, we are developing a cross-departmental National Action Plan for the acceptance and protection of sexual and gender diversity and are implementing it with financial support.”⁸⁶ In January 2022, the new office of the Federal Government Commissioner for the Acceptance of Sexual and Gender Diversity (Queer Commissioner) was created, which is currently held by the Parliamentary State Secretary at the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ), Sven Lehmann.⁸⁷ The coalition agreement was received mostly positively by civil society, the Lesben- und Schwulenverband welcomed this “queer-political awakening”⁸⁸.

5.2 Overview of demands and requirements: First steps towards drafting a National LGBTIQ* Equality Action Plan in Germany

Looking at the drafting, implementation and evaluation of a National Action Plan at the process level (Chapter 4.1), it becomes clear that the first major step towards the development of an action plan is a clear political commitment, backed up with the corresponding (financial and human) resources, as well as the establishment of a management and steering framework. In addition, there must be an analysis of the current situation within the framework of a comprehensive needs and requirements assessment. These first two steps in the process are crucial in order to initially launch the project and to be able to align it with the current requirements and needs.

⁸⁶ Coalition agreement: Daring to make progress – Coalition for Freedom, Justice and Sustainability [Mehr Fortschritt wagen – Bündnis für Freiheit, Gerechtigkeit und Nachhaltigkeit] https://www.spd.de/fileadmin/Dokumente/Koalitionsvertrag/Koalitionsvertrag_2021-2025.pdf [in German], p. 119; summary of the LSVD on the queer policy plans within the coalition agreement: <https://www.lsvd.de/de/ct/6303-Welche-queerpolitischen-Vorhaben-stehen-im-Koalitionsvertrag-der-Ampel> [in German].

⁸⁷ Press release of the BMFSFJ of 5 January 2022: <https://www.bmfsfj.de/bmfsfj/aktuelles/alle-meldungen/sven-lehmann-ist-neuer-queer-beauftragter-191544> [in German].

⁸⁸ LSVD: <https://www.lsvd.de/de/ct/6303-Welche-queerpolitischen-Vorhaben-stehen-im-Koalitionsvertrag-der-Ampel> [in German], BVT*: <https://www.bundesverband-trans.de/darauf-haben-trans-personen-seit-jahrzehnten-gewartet/> [in German].

This chapter summarises the demands for a National LGBTIQ* Equality Action Plan from European and German civil society and political levels alike, which were presented in [Chapter 3](#) and [Chapter 5.1](#), in relation to the first process steps for setting up a National Action Plan ([Chapter 4.1](#)) and success factors identified at international and European level ([Chapter 4.2](#)).

The German original version of this publication⁸⁹ contains an overview of the demands in verbatim. As the original documents are only available in German and specific to the German context, the verbatim overview is not available in English. However, this chapter provides an overview of existing demands in English.

Political will

With the concrete plan to develop a cross-departmental National Action Plan for the acceptance and protection of sexual and gender diversity in the coalition agreement of the social democratic party Sozialdemokratische Partei Deutschlands, the green party Bündnis 90/Die Grünen and the liberal party Freie Demokratische Partei of 24 November 2021 – as was demanded by the Deutsches Institut für Menschenrechte (DIMR 2019) and several political parties (SPD EP 2021, Bündnis 90/Die Grünen EP 2021, Die Linke EP 2021, FDP EP 2021) – political will has already been demonstrated. Furthermore, reliable voluntary commitments of the responsible public bodies are called for (see Paritätischer 2021; LSVD 2020; LSVD 2019; Bündnis 90/Die Grünen 2019; LSVD et al. 2017).

Objectives and measures

There are calls for clear targets to be reached within a set timeline (Paritätischer 2021; LSVD 2020; LSVD 2019; LSVD et al. 2017) as well as measures (Bündnis 90/Die Grünen 2019) for all fields of action of a National Action Plan (JFMK 2020), with measurable intermediate steps based on a study of the initial situation (DIMR 2019). With regard to these objectives, specific measures and responsibilities should be bindingly defined, and deadlines for the implementation of measures and the achievement of objectives as well as indicators for the measurability of their effects via evaluations and data provision should be set (BVT* 2019). The objectives should be considered and addressed intersectionally (LSVD 2019).

Resources

Civil society actors demand adequate budgetary resources (Paritätischer 2021; LSVD 2020; LSVD 2019) and the concrete financial underpinning of the measures with regard to the federal budget (BVT*/LSVD 2017). Individual measures should be firmly integrated into the budget as well as with regard to the personnel responsibilities within the respective departmental budgets (BVT* 2019). The structural resources of civil society organisations involved in the process of developing and implementing the National Action Plan should also be secured (LSVD 2019). Political parties also demand the latter: Institutional funding and project funding for LGBTIQ* associations, organisations and foundations (Bündnis 90/Die Grünen EP 2021). Specifically,

⁸⁹ All demands in verbatim (German): Annex 9 in Wittenius, Marie (2022): [Erstellung Nationaler Aktionspläne zur Gleichstellung von LGBTIQ*-Personen. Rahmen und Forderungen auf europäischer Ebene und in Deutschland](#). Expertise der Beobachtungsstelle für gesellschaftspolitische Entwicklungen in Europa.

the National Action Plan is to be financially backed with 35 million euros per year (Bündnis 90/Die Grünen 2019).

Competences

All levels of government – i.e. federal, state (Bundesländer) and local – should work together (Paritätischer 2021; LSVD 2020). In particular, the participation of the Bundesländer in the development of a National Action Plan is emphasised (JFMK 2020; LSVD et al. 2017). There is also the call for a longer-term and cross-departmental (federal and state) planning framework (BVT* 2019). In the spirit of a cross-sectional approach, the content-related and financial responsibilities of all federal ministries should be included as well (JFMK 2020). The institutional responsibilities and allocated resources should be clearly regulated and recorded (DIMR 2019).

Coordination of the entire process, incl. monitoring and review

There is a call for the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth to take the lead in development and coordination (JFMK 2020); this is explicitly understood as a cross-departmental task (Bündnis 90/Die Grünen 2019; LSVD 2019). Clear reporting obligations and evaluation of the measures should be provided for (JFMK 2020) and progress should be evaluated once in a legislative period in the form of a report to be submitted to the Bundestag (Bündnis 90/Die Grünen 2019). There should be corresponding timetables and working plans for the concrete implementation of the measures (LSVD 2019). The ongoing review of the implementation and, if necessary, adaptation of the measures should be established in the form of a monitoring process (DIMR 2019). The evaluation should reflect on the individual steps of the action plan, strategies and measures and develop them further, based on the experience gained (LSVD 2019).

Participation opportunities for stakeholders

The development and implementation of a nationwide interministerial National Action Plan should take place in an interdisciplinary and participatory manner in close dialogue with civil society and communities (LSVD 2019; JFMK 2020; Bündnis 90/Die Grünen 2019; Bündnis 90/Die Grünen EP 2021; DIMR 2019; BVT* 2019). A suitable form of structured dialogue between government and civil society should be established (BVT*/LSVD 2017), and the steering/management and implementation of measures should take place in cooperation with civil society, e.g. via an advisory/review board. (LSVD 2019). A National Action Plan should in general guarantee equal participation in social life for all (Bündnis 90/Die Grünen EP 2021) and should be seen as a task for the entire society (Die Linke EP 2021).

6 Summary

Looking at the drafting, implementation and evaluation of a National Action Plan at the process level ([Chapter 4.1](#)), it becomes clear that the first major step towards the development of an action plan is a clear political commitment, backed up with the corresponding (financial and human) resources, as well as the establishment of a management and steering framework. The analysis of the prevailing situation in the context of a comprehensive requirements assessment forms the starting point for the planning work. These first two steps are crucial for the initialisation of the project. Only then does the second major phase of content preparation begin, based on the prior requirements assessment and with the involvement of stakeholders, and the elaboration of concrete measures. The third phase is implementation and the associated monitoring and regular stocktaking of this implementation in connection with final updating of the plan.

The evidence-based success factors in developing action plans ([Chapter 4.2](#)) compiled by the United Nations, the Council of Europe, the European Commission and the European Union Agency for Fundamental Rights share several common features: political will, transparency and strong stakeholder involvement, adequate human and financial resources, clearly defined measurable and achievable objectives, coordination across all levels and departments, good communication and mainstreaming. Considering these success factors throughout the process of drafting, implementing and updating an action plan is thus beneficial to ensure its effectiveness.

In addition to the calls at European level by the Council of Europe, the European Union and European civil society for the national level to develop National LGBTIQ* Equality Action Plans ([Chapter 3](#)), there have also been demands for such an action plan from within Germany for over ten years ([Chapter 5.1](#)). The concrete plan to develop a cross-departmental National Action Plan for the acceptance and protection of sexual and gender diversity was set out in the coalition agreement of the social democratic party Sozialdemokratische Partei Deutschlands, the green party Bündnis 90/Die Grünen and the liberal party Freie Demokratische Partei of 24 November 2021. The earlier demands for a National Action Plan with a special focus on the rights and equality of LGBTIQ* persons in Germany, which have been elaborated over a long period of time by civil society and politicians alike, are now proving very helpful in shaping this process.

Demands on German national level for a National LGBTIQ* Equality Action Plan based on the aforementioned key documents such as motions in the Bundestag, resolutions and statements by civil society organisations show a number of initial concrete approaches to taking the first steps on the path towards drafting such an action plan ([Chapter 5.2](#)). Based on the guidelines and success factors for the drafting and implementation of National Action Plans developed at international and European level ([Chapter 4](#)), these requirements were summarised with regard to the first steps of the process – and thus the aspects of political will, objectives and measures, resources, competences, coordination of the overall process (including monitoring and review) and opportunities for stakeholder participation ([Chapter 5.2](#)).

The overview shows that the following points are required for the creation of a National Action Plan with a focus on the rights and equality of LGBTIQ* persons:

- Concrete and adequate financial backing in the federal budget and firm embeddedness into the departmental budgets for both measures as well as institutional or project funding for LGBTIQ* associations, organisations and foundations; provision of 35 million euros per year
- Interdepartmental coordination and leadership at the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth: process of drafting, annual progress report for the Bundestag, adjustment of measures if necessary, as well as evaluation and provision of data
- Cross-level cooperation between the federal government, the Bundesländer and municipalities as well as between ministries with clearly defined responsibilities
- Interdisciplinary and participatory development/drafting and implementation with civil society and the LGBTIQ* community; structured dialogue between government and civil society
- Clearly defined and measurable objectives for various fields of action, including intersectional ones⁹⁰, with responsibilities and deadlines for the implementation of concrete measures, based on a study of the initial situation.

The demands only insufficiently cover the issue of data collection. In some instances (LSVD 2021; LSVD 2020; BVT* 2019), reference is made to the poor data situation specifically in relation to hate crime and trans persons. The German Institute for Human Rights calls for a general study on the initial/current situation (DIMR 2019). As the sub-chapter on the collection and use of equality data ([Chapter 4.3](#)) shows, the lack of data collection on sexual orientation, gender identity and variations in gender characteristics and the associated gap in the availability of these data is a major problem in the development of National Action Plans. As pointed out by the Organisation for Economic Co-operation and Development, this information is crucial to assess the concerns and needs of LGBTIQ* persons and to tailor the design of a National Action Plan accordingly to these needs.

⁹⁰ On concrete demands and needs for rainbow families see Lange 2022; on hate crime see Molter 2022.

7 Conclusion

The instrument of National Action Plans is a suitable, effective and widespread measure to concretise and implement values codified in international law, such as the protection of human rights, at national level and according to the respective framework conditions. With regard to the human rights and equality of LGBTIQ* persons, it has been shown at the European level that National LGBTIQ* Equality Action Plans have a consistent and systematic effect. According to the Organisation for Economic Co-operation and Development, countries that implement National LGBTIQ* Equality Action Plans have an above-average level of legal measures on LGBTI equality. The Rainbow Index data also shows that countries that implement comprehensive National LGBTIQ* Equality Action Plans covering sexual orientation, gender identity and gender characteristics continuously score above average on all further criteria of the Index. In particular, National Action Plans contribute to promoting a culture of equality as well as to supporting measures for greater acceptance of LGBTIQ* persons and their concerns and needs in the public sphere.

As the concept of National Action Plans emerged at the international level, these plans cannot exist as a “stand-alone” concept but are part of a larger international strategic framework of objectives. When it comes to human rights and equality of LGBTIQ* persons, such a framework is clearly provided by the Council of Europe and the European Union with the Council of Europe’s Recommendation on Action to Combat Discrimination on grounds of Sexual Orientation and Gender Identity (CM/REC(2010)5) and the European Commission’s LGBTIQ Equality Strategy 2020-2025. The latter directly calls for the development of National LGBTIQ* Equality Action Plans by EU Member States within the framework of the above-mentioned strategy. Based on its own analyses and data collection, European civil society also calls on national governments to adopt National LGBTIQ* Equality Action Plans.

As the concept of National Action Plans was developed to concretise and implement an overarching strategic objective in relation to individual political, legal, socio-economic and other societal circumstances at the national level, a certain level of heterogeneity of National Action Plans is inherent to the process. However, there is a broad and well-developed base of guidance from the international and European level that explains the basic process steps of drafting, implementing and evaluating a National Action Plan. Furthermore, there are a number of success factors for the creation of National LGBTIQ* Equality Action Plans that have already been tested and identified in exchange with national governments, human rights organisations and civil society. In particular, the achievability of the objectives, adequate allocation of (human and financial) resources, cooperation with civil society, measures encompassing all areas of governmental responsibility – also with regard to sensitive issues –, mainstreaming across all levels and areas of government, monitoring and evaluation of the action plan as well as good communication strategies should be highlighted in this context.

The first steps in the creation of National Action Plans are about mobilisation for the strategically overarching objective as well as the political will to develop and implement appropriate measures to this end. In addition to the clear call at European level to create National LGBTIQ* Equality Action Plans, there have also been demands for such an action plan from within Germany for over ten years. The concrete plan to develop a cross-departmental National Action

Plan for the acceptance and protection of sexual and gender diversity was set out in the coalition agreement of the social democratic party Sozialdemokratische Partei Deutschlands, the green party Bündnis 90/Die Grünen and the liberal party Freie Demokratische Partei of 24 November 2021.

For the drafting and implementation of this project, those responsible should draw upon the earlier demands for a National Action Plan with a special focus on the rights and equality of LGBTIQ* persons in Germany, which have been elaborated over a long period of time by civil society and politicians alike. The demands envisage the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth as the interdepartmental coordinator and lead agency for a National LGBTIQ* Equality Action Plan. According to the demands, this coordination includes the process of drafting, annual progress reports for the Bundestag, adjustment of measures if necessary, as well as evaluation and provision of data. The process of drafting and implementation should continue to ensure the distribution of responsibilities and close coordination between the federal government, the Bundesländer and the municipalities as well as between departments, and should be carried out within the framework of a structured dialogue with civil society and the LGBTIQ* community. According to the demands, the entire process requires concrete and adequate financial support for a National LGBTIQ* Equality Action Plan in the federal budget, which must also be firmly integrated into the specific departmental budgets, as well as institutional and project funding for LGBTIQ* associations, organisations and foundations. The objectives and measures of the plan should be clearly defined in terms of time and measurable, and should be accompanied by responsibilities and deadlines for implementation for various fields of action, including intersectional aspects⁹¹.

An essential precondition for the creation of an effective and representative National LGBTIQ* Equality Action Plan is the prior collection of data on sexual orientation, gender identity and variations in gender characteristics. The existing gap in the availability of this data in Germany poses a major obstacle to addressing the concerns of LGBTIQ* persons and to designing a National Action Plan according to their needs.

⁹¹ On concrete demands and needs for rainbow families see Lange 2022; on hate crime see Molter 2022.

Overview: Documents considered

Key documents at international level

- Council of Europe (2010): [Recommendation of the Committee of Ministers to member states to combat discrimination on grounds of sexual orientation and gender identity CM/Rec \(2010\)5](#)
- European Commission (2020): [LGBTIQ Equality Strategy 2020–2025](#)

Handbooks, guidelines and toolkits

- United Nations, Office of the United Nations High Commissioner for Human Rights (UNHCHR) (2002): [Handbook on National Human Rights Plans of Action](#)
- UN Women (2012): [Handbook for National Action Plans on Violence against Women](#)
- Council of Europe (2014): [Workshop on developing and implementing National Action Plans for Human Rights](#)
- Council of Europe (2016): [National Actions Plans as effective tools to promote and protect the human rights of LGBTI people](#)
- European Commission (2016): [European Handbook on Equality Data](#)
- Danish Institute for Human Rights & International Corporate Accountability Roundtable (2017): [National Actions Plans on Business and Human Rights Toolkit](#)
- European Commission/ Mark Bell (2017): [Data collection in relation to LGBTI People – Analysis and comparative review of equality data collection practices in the European Union](#)
- European Commission (2018): [Subgroup on Equality Data – Guidelines on improving the collection and use of equality data](#)
- European Union Agency for Fundamental Rights (FRA) (2019): [National human rights action plans in the EU – Practices, experiences and lessons learned for more systematic working methods on human rights](#)
- European Commission (2022): [LGBTIQ Equality Subgroup – Guidelines for Strategies and Actions Plans to Enhance LGBTIQ Equality](#)

Studies/data collections

- Study by the Organisation for Economic Co-operation and Development, OECD (2020): [Over the Rainbow? The Road to LGBTI Inclusion](#)
- Study by the European Union Agency for Fundamental Rights (FRA) (2020): [A long way to go for LGBTI equality](#)
- Rainbow Index website: <https://www.rainbow-europe.org/> (constantly updated)
- Trans Rights Maps: <https://tgeu.org/tag/trans-rights-europe-map/>
- OII Europe Good Practice Map: <https://oiieurope.org/library-en/map/>

Motions and statements at German national level (chronologically)⁹²

- FDP – Freie Demokratische Partei (2021): [Antrag der Bundestagsfraktion FDP: Vielfalt schützen – Homo- und transfeindliche Hasskriminalität bekämpfen](#) [Motion by the FDP parliamentary group: Protecting diversity - combatting homophobic and transphobic hate crimes] (BT-Drucksache 19/26159) of 26 January 2021.
- LSVD – Lesben- und Schwulenverband e. V. (2021): [Stellungnahme des Lesben- und Schwulenverbands \(LSVD\) zu dem Antrag der Fraktion Bündnis 90/Die Grünen „Hass und Hetze gegen LSBTI wirksam bekämpfen.“](#) (BT-Drucksache 19/26886) und dem Antrag der FDP-Fraktion „Vielfalt schützen – Homo- und transfeindliche Hasskriminalität bekämpfen“ (BT-Drucksache 19/26159) [Statement of the Lesben- und Schwulenverband (LSVD) on the motion of the parliamentary group of Bündnis 90/Die Grünen “Effectively combating hatred and incitement against LGBTI persons.” and the motion of the parliamentary group of the FDP “Protecting diversity – combating homophobic and transphobic hate crime”], 4 June 2021.
- Paritätischer – Der Paritätische Gesamtverband (2021): [Paritätische Eckpunkte zum menschenrechtlichen Schutz von sexueller Orientierung und geschlechtlicher Identität](#) [Key points of the association Der Paritätische Gesamtverband on human rights protection with regard to sexual orientation and gender identity]. Resolution of the committee meeting of 29 April 2021.
- LSVD – Lesben- und Schwulenverband e. V. (2020): [Frei und sicher leben: Homophobe und transfeindliche Hasskriminalität entschieden bekämpfen](#) [Living free and secure: resolutely combatting homophobic and transphobic hate crimes]. Resolution of the 32nd LSVD meeting of 10 October 2020.
- JFMK – Jugend- und Familienministerkonferenz (2020): [Verabschiedung eines Nationalen Aktionsplans zugunsten der vollständigen rechtlichen und gesellschaftlichen Gleichstellung von Lesben, Schwulen, Bisexuellen, Trans*, Inter* und queeren Menschen – LSBTIQ*](#) [Resolution Adoption of a National Action Plan in favour of full legal and social equality of lesbian, gay, bisexual, trans*, inter* and queer persons - LGBTIQ*], 1 July 2020.
- BÜNDNIS 90/DIE GRÜNEN (2019): [Antrag der Bundestagsfraktion Bündnis 90/Die Grünen: Aktionsplan für sexuelle und geschlechtliche Vielfalt \(Drucksache 19/10224\)](#) [Motion by the Bündnis 90/Die Grünen parliamentary group: Action Plan for sexual and gender diversity], 15 May 2019.
- LSVD – Lesben- und Schwulenverband e. V. (2019): [Stellungnahme zu dem Antrag der Fraktion BÜNDNIS 90/ DIE GRÜNEN „Vielfalt leben –Bundesweiten Aktionsplan für sexuelle und geschlechtliche Vielfalt auflegen“](#) (BT-Drucksache 19/10224) [Statement on the motion by Bündnis 90/Die Grünen “Living diversity – launching a National Action Plan for Sexual and Gender Diversity”] on the occasion of the public hearing in the Ausschuss Familie, Senioren, Frauen und Jugend of the German Bundestag on 16 December 2019.⁹³
- BVT* – Bundesverband Trans* e. V. (2019): [Stellungnahme zu dem Antrag der Fraktion BÜNDNIS 90/ DIE GRÜNEN „Vielfalt leben –Bundesweiten Aktionsplan für sexuelle und geschlechtliche Vielfalt auflegen“](#) (BT-Drucksache 19/10224) [Statement on the motion by Bündnis 90/Die Grünen “Living diversity – launching a National Action Plan for Sexual

⁹² In descending order

⁹³ The statement repeats the demands of the previous joint statement by LSVD and BVT* entitled [Protecting human rights, eliminating discrimination - Civil society demands on the National Action Plan against Racism, Homophobia and Transphobia of the Federal Government](#) [in German] of 2 May 2017. For this reason, the 2017 statement is not listed separately.

and Gender Diversity”] on the occasion of the public hearing in the Ausschuss Familie, Senioren, Frauen und Jugend of the German Bundestag on 16 December 2019.⁹⁴

DIMR – Deutsches Institut für Menschenrechte (2019): [Stellungnahme zu dem Antrag der Fraktion BÜNDNIS 90/ DIE GRÜNEN „Vielfalt leben –Bundesweiten Aktionsplan für sexuelle und geschlechtliche Vielfalt auflegen“ \(BT-Drucksache 19/10224\)](#) [Statement on the motion by Bündnis 90/Die Grünen “Living diversity – launching a National Action Plan for Sexual and Gender Diversity”] on the occasion of the public hearing in the Ausschuss Familie, Senioren, Frauen und Jugend of the German Bundestag on 16 December 2019.

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Internal documents

The following documents are internal documents that were made available to the Observatory for researching this paper by Department 215 at the BMFSFJ.

- Key points for the expansion of the National Action Plan against Racism to include the topic of LGBTIQ hostility by BVT* and LSVD of 25 April 2017 (**BVT*/LSVD 2017**).⁹⁵
- Key points for a National Action Plan to Combat Homophobia and Transphobia by the Lesbian and Gay Association Germany of 3 September 2015 (**LSVD 2015**).⁹⁶

Election programmes for the Federal Elections (Bundestagswahl) 2021

Calls for a National LGBTIQ* Equality Action Plan were found in the following election programmes:

- DIE LINKE EP (2021): [Zeit zu handeln! Für soziale Sicherheit, Frieden und Klimagerechtigkeit!](#) [Time to act: For social security, freedom and climate justice!]. Programme for the Bundestag election 2021. ⇨ *Section „Für Gerechtigkeit, Selbstbestimmung und Vielfalt der Geschlechter“*
- BÜNDNIS 90/DIE GRÜNEN EP (2021): [Deutschland. Alles ist drin](#) [Germany. Everything is possible]. Programme for the Bundestag election 2021. ⇨ *Chapter 5 „Zusammen leben“*

⁹⁴ See footnote 93.

⁹⁵ In 2017, the Federal Association of Trans* persons and the Lesbian and Gay Association internally presented key points to Tobias Kersten-Bittner for the expansion of the National Action Plan against Racism to include the topic of LGBTIQ hostility/phobia, which - apart from a demand regarding health - refer to the key points of the LSVD made in 2015.

⁹⁶ In 2015, the LSVD internally presented key points for a National Action Plan to Combat Homophobia and Transphobia to the then Federal Minister for Equality, Manuela Schwesig, focusing on areas of responsibility with direct competence of the federal government.

- FDP – Freie Demokratische Partei EP (2021): [Nie gab es mehr zu tun. Wahlprogramm der Freien Demokraten](#) [Never was there more to do]. Programme for the Bundestag election 2021. ⇨ *Chapter II „Nie war Modernisierung dringlicher: Modernisieren wir endlich unser Land!“*
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