



ILGA-Europe Rainbow Map Explanatory Document

May 2013

1. Background

The first version of the *ILGA-Europe Rainbow Map* was published in July 2009, right before the *International Human Rights Conference* held in Copenhagen during the *World OutGames 2009*. The simplicity of the map made it an immediate success, as well as a powerful benchmarking tool.

Following input that was received, a decision was taken in the run-up to the May 2011 version to transform the map in such a way as to enhance the benchmarking dynamic. Importantly, that same year, gender identity was included for this first time, thus making the map fully inclusive of trans issues. Additionally, a colour scale was introduced to indicate the countries that are on the path towards full legal respect of the human rights of LGBTI people (green), and which countries are lagging behind (amber or red).

The May 2013 version further develops the benchmarking aspect of the Rainbow Map. This time round a decision was taken to transform the Index into a percentage scale range (0 – 100%) to ensure easier readability and longitudinal comparisons for the situation in the different countries. We have also introduced a weighting system between the 6 thematic categories and between the different subcategories as well, thus ensuring better representation of the actual situation.

Finally the Rainbow Map is now mirrored on the ILGA-Europe website at www.ilga-europe.org/rainboweurope where greater information is made available, including links to the legislation and relevant policies.

2. What does it measure?

The Rainbow Map covers the legal and policy situation with regards to 6 thematic categories (Equality and non-discrimination; Family; Bias motivated speech / violence; Legal gender recognition; Freedom of assembly, association, and expression; and Asylum).

The main rule is that sexual orientation and gender identity (or equivalent) need to be clearly referred to in the respective law or policy; or that lesbian, gay, bisexual, trans and intersex people are treated equally in law or by the state. For the purposes of this map, a law or policy is taken to exist once it is adopted by the respective parliament. Greater information about each and every category that is measured is included below in **4.**

Benchmarking Rules and **5. Specific subcategory rules.**

Nonetheless, the Rainbow Map does not cover the social situation, as no such review is possible for all 49 European countries yet.

3. Weighting of categories

a) Equality and non-discrimination 25%

- Constitution (sexual orientation) 1.25%
- employment (sexual orientation) 1.25%
- goods & services (sexual orientation) 1.25%
- other spheres of life (sexual orientation) 1.25%
- equality body mandate (sexual orientation) 2%
- equality action plan (sexual orientation) 3%
- Constitution (gender identity) 1.25%
- employment (gender identity) 1.25%
- goods & services (gender identity) 1.25%
- other spheres of life (gender identity) 1.25%
- equality body mandate (gender identity) 2%
- equality action plan (gender identity) 3%
- law (gender expression) 2.5%
- law (intersex) 2.5%

b) Family¹ 25%

- marriage equality 12%
- registered partnership (similar rights to marriage) 9%
- registered partnership (limited rights) 4.5%
- cohabitation 1.5%
- joint adoption 3%
- second-parent adoption 3%
- automatic co-parent recognition 3%
- medically assisted insemination (couples) 2%
- medically assisted insemination (singles) 1%

¹ Countries that have more than one form of legal recognition of same-sex partners are awarded points only for the highest legal form of recognition.

- trans people can marry a person of the other gender 1%

c) Bias motivated speech / violence **20%**

- hate crime law (sexual orientation) 3.6%
- hate speech law (sexual orientation) 3.6%
- policy tackling hatred (sexual orientation) 1.8%
- hate crime law (gender identity) 3.6%
- hate speech law (gender identity) 3.6%
- policy tackling hatred (gender identity) 1.8%
- law (intersex) 2%

d) Legal gender recognition **15%**

- existence of procedures 1.05%
- name change 1.05%
- change of gender on official documents to match gender identity 1.05%
- no 'Gender Identity Disorder' diagnosis/psychological opinion required 3%
- no compulsory medical intervention required 1.95%
- no compulsory surgical intervention required 1.95%
- no compulsory sterilisation required 3%
- no compulsory divorce required 1.95%

e) Freedom of assembly, association, and expression **10%**

- public events held, no state obstruction (last 5 years) 3.5%
- associations operate, no state obstruction (last 5 years) 3%
- no laws limiting expression (national/local) 3.5%

f) Asylum **5%**

- law (sexual orientation) 1.25%
- policy/other positive measures (sexual orientation) 1.25%
- law (gender identity) 1.25%
- policy/other positive measures (gender identity) 1.25%

4. Benchmarking rules

Sexual orientation: The law or policy needs to expressly refer to the ground of sexual orientation unless otherwise stated.

Gender identity: The law or policy needs to expressly refer to the ground of gender identity (or equivalent ground) unless otherwise stated. Coverage of the ground under the grounds of 'sex' or 'gender' is deemed to be insufficient unless express reference to the coverage of ground of gender identity is also included in the law's recitals or explanatory memorandum.

Gender expression: The law or policy needs to expressly refer to the ground of gender expression unless otherwise stated.

Intersex: The law or policy needs to expressly refer to intersex people or a ground that expressly includes them. Coverage intersex people under the ground of 'sex' or 'gender' is insufficient, unless express reference to the inclusion of intersex people is not included in the law's recitals or explanatory memorandum.

5. Specific subcategory rules

Equality and non-discrimination – Constitution: The constitutional anti-discrimination provisions expressly refer to [the ground] or a Constitutional Court decision effectively added the ground [the ground] to the list of expressly covered grounds.

Equality and non-discrimination – Equality body mandate: The equality body is mandated (law or founding document) to covers [the ground], or has been implemented in a way where [the ground] is *de facto* integrated into the mandate.

Equality and non-discrimination – Equality action plan: A time bound equality action plan expressly covering [the ground] exists and includes specific measures for progress.

Bias motivated speech / violence – Policy tackling hatred: A recurrent and continuing framework by state actors tackling hatred. This can be: (i) specific measures in a general LGBTI equality action plan; (ii) a specific sectorial action plan in the area of hate crime/hate speech; (iii) a generalised training curricula for competent professionals (e.g. police officers, prosecutors, victim support services, judges); or (iv) specialised dedicated structure(s) within the competent public authorities, with an expertise in the area of LGBTI hate crime/hate speech.

Asylum – policy/other positive measures: A recurrent and continuing framework by state actors in the field of asylum. This can be: (i) specific measures in a general LGBTI equality action plan; (ii) a specific sectorial action plan in the area of asylum; (iii) a generalised training curricula for competent professionals (e.g. asylum authorities staff, interviewers,

case adjudicators); or (iv) specialised dedicated structure(s) within the asylum authorities, with an expertise in the area of LGBTI asylum.