



DIVERSITY - MINORITY - VISIBILITY - PARTICIPATION

Adapting inclusive policies to address the issues of the Romanian citizens belonging to the Roma LGBT community

July 2021

Project:



Document elaborated in „INTERSECT – Changing the narrative of discrimination” project coordinated by the Centre for Legal Resources in partnership with ACTEDO - Equality and Human Rights Action Centre, MozaiQ LGBT and UCTRR - Civic Union of Young Roma from Romania.



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Context and significance of the issue

This policy brief is an outcome of the project „INTERSECT – Changing the narrative of discrimination”, funded by the European Union's Rights, Equality and Citizenship Programme (2014-2020), which aims to highlight the challenges faced by the Roma LGBTIQ minority in Romania. It is also based on an analysis of the state of implementation of existing legislation in the field of equal treatment and non-discrimination in certain areas of existing public policy interventions and, based on specific activities of the INTERSECT project, from which a series of practical recommendations are drawn for the use of public institutions, public policy specialists and non-governmental organisations.

It also proposes the introduction of the principle of 'intersectionality' as a cross-cutting principle in public policies: sexual orientation, gender identity/expression and/or sexual characteristics are taken into account alongside other characteristics or personal identities, such as gender, racial origin, ethnic origin, religion, belief, disability and age, which combined can lead to increased discrimination.

Criticism of the existing public policy option

Although European legislation in the field of equal treatment and non-discrimination is transposed into national law, many aspects of unequal treatment and discrimination of Roma LGBTIQ people are encountered in their everyday life and are unknown to the public or even to specialists.

LGBTIQ issues are often not reflected in public policies developed at national or local level. LGBTIQ people are invisible to existing public policies, even though they face a number of social challenges that are difficult to overcome without active and explicit interventions by the responsible authorities to combat multiple, intersectional discrimination. This calls for a visibility of this minority in state policies and a greater sensitivity to the issues to be outlined in this policy brief in terms of addressing social inclusion policies in Romania.

The European Union has recently adopted its own ***LGBTIQ Equality Strategy 2020-2025***, which proposes to the Member States to reduce discrimination and guarantee the safety and fundamental rights of LGBTIQ people throughout the EU by adopting legislative measures at European level and encourages them to develop and implement, at national level, the action plans mentioned in the strategy. The EU LGBTIQ Equality Strategy 2020-2025 proposes an intersectional vision in analysing the realities of the LGBTIQ community in key areas such as health, education, and places emphasis including at the funding level, encouraging the funding of projects with an intersectional approach.¹ The Romanian government has not publicly announced the launch of such an initiative for a public consultation with social partners. This is the first time that a broad dialogue between European and international

¹ The European Commission uses, in the document, a definition of intersectionality given by the European Institute for Gender Equality as an "analytical tool for studying, understanding and responding to the ways in which sex and gender intersect with other personal characteristics/identities and how these intersections contribute to unique experiences of discrimination". Read more <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021AE0006&from=EN>

institutions, Member States, civil society organisations and social partners on the issue of sexual minorities, which also takes into account intersectionality issues, has been politically and legislatively recognised and proposed at EU level. In the latter case, the European Economic and Social Committee, in its opinion 2021/C 286/22², recommends that, in order to achieve its objectives, the LGBTIQ Equality Strategy should be linked to other European strategies in order to have a cross-sectoral perspective, for example the Victims' Rights Strategy, the Gender Equality Strategy, the EU Action Plan to Combat Racism, the Disability Rights Strategy and the Strategy for the Rights of the Child.

Also at EU level, a new ***EU Strategic Framework for Roma equality, inclusion and participation 2020-2030***, proposed by the European Commission in October 2020 (COM(2020) 620 final)³, was adopted in March 2021. It provides a series of recommendations for Member States to incorporate Roma social inclusion into national policies. It also urges Member States to reflect on the existing diversity among Roma through **an intersectional approach**⁴, taking into account how different aspects of identity can combine to accentuate discrimination, as outlined in this policy brief.

² Opinion of the European Economic and Social Committee on 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Union of Equality: LGBTIQ Equality Strategy 2020-2025' (COM(2020) 698 final), available in English, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021AE0006&from=EN>

³ Participation 2020-2030, {SWD(2020) 530 final}, available at https://eur-lex.europa.eu/resource.html?uri=cellar:9a007e7e-08ad-11eb-a511-01aa75ed71a1.0001.02/DOC_1&format=PDF

⁴ "An intersectional approach is needed, sensitive to the combination of ethnicity with other aspects of identity and the ways in which such intersections contribute to unique experiences of discrimination" (pg. 2)

There is therefore a need to ensure synergy between all these European strategies adopted and implemented at national level, as quantitative and/or qualitative targets should be set to ensure that existing diversity in terms of age, gender, sexual orientation and other personal characteristics is reflected.

Results and recommendations

Poverty and social exclusion

Faced with serious socio-economic deprivation and high rates of poverty and social exclusion, caused by added discrimination in their own families, where LGBTIQ Roma youth should get a good start in life, they also often face an unsafe school climate or one that does not allow them access to educational opportunities or opportunities for healthy growth and socio-emotional development, because of their ethnicity and/or sexual orientation or gender identity or gender expression. A majority of LGBTIQ Roma youth participating in the INTERSECT project reported feeling unsafe in the school environment and experiencing victimization at school.

There are reported cases of young Roma belonging to sexual minorities from Roma communities with conservative views who have been forced into marriages by their families to mask their sexual orientation that does not conform to the vision imposed by the dominant heteronormative model, which has caused them physical and psychological trauma unrecognised by their families. There are cases of young LGBTIQ Roma who, not coping with the psychological pressure from their family circle, have

run away from home, living on the streets and exposing themselves to risks to personal health, physical integrity, frequenting environments where physical, sexual and psychological abuse is present as a result of continuous vulnerability. There is a need for the authorities responsible for promoting the rights of the child and those in the field of social services to be informed, aware and trained to address these types of vulnerabilities of adolescents from disadvantaged backgrounds.

All these experiences have real consequences for the health and educational outcomes of young LGBTIQ Roma. There have also been reports - including among the trans Roma people participating in the project - of long-term disengagement from school, low self-esteem and even depression, which have an impact on their developing personalities, sometimes resorting to suicide, when they have not found an environment in school or in their families or circle of friends that allows them to express themselves fully. What is needed, therefore, is a school environment that is safe and sensitive to differences. School administrators need to conduct school climate surveys, as well as surveys on unwanted student experiences, prejudice, bullying, harassment, discrimination, unethical teacher-student relationships, etc. These surveys need to be conducted in a manner that protects the identity of the victims and ultimately leads to school policies that raise school-wide awareness of unwanted phenomena and increase confidence in school as a safe space for all students.

At the same time, when seeking public services that take into account their differences, Roma LGBTIQ people are not provided with medical and social services, safe

shelters, support programmes and safe places for Roma LGBTIQ people who are victims of abuse, domestic violence, hate crimes and hate speech. In extreme cases, which are not rare, young LGBTIQ Roma who do not receive support and understanding from their families are pushed into homelessness, a form of extreme social exclusion that public authorities are not prepared to combat.

All these services should be adapted to the issue of intersectionality and the professionals interacting with Roma LGBTIQ people (doctors, teachers, social workers, law enforcement officers, etc.) should be trained to better understand the specific circumstances and needs of Roma LGBTIQ people.

Discrimination at work and access to the labour market

Roma LGBTIQ people face a number of dual challenges related to both *racism* and intolerance related to *sexual orientation, gender identity or gender expression, or gender assumed or perceived* by employers or recruiters, during the recruitment process, in the workplace and at the end of their professional career, despite existing legislation protecting them. Lack or loss of employment for Roma LGBTIQ people puts them at risk of poverty and social marginalisation and homelessness.

In order to improve the employability of these people, there is a need for active employment policies and the introduction of an LGBTIQ and anti-racism perspective in employment plans. It is also essential that at the level of public and private employers, these plans include concrete measures, protocols and tools to combat discrimination faced by these individuals in the workplace. There is also a

need for existing procedures, internal rules and practices to incorporate the principles of diversity and establish sanctions for those who create a hostile, degrading and humiliating environment in the workplace based on criteria protected by anti-discrimination legislation.

Equal rights and decision-making autonomy for transgender people

Transgender people are among the most excluded categories of citizens who face intolerance, hate speech, and hate crimes⁵. Although international human rights standards explicitly provide for equal rights for the trans minority, they face a wide range of social challenges on a daily basis. As a result of rejection by their own families (the environment in which they should feel safest), many trans people, especially young people, become homeless, putting their health and physical integrity at risk. Other major challenges are generated by the mismatch between the factual and legal situation due to difficult procedures for changing identity documents, abuses by authorities⁶, lack of medical procedures⁷, etc. To all of these are added the ethnic/racial prejudices faced in every aspect of social life by a double discriminated Roma trans person. Such social

⁵ GENDER-INCLUSIVE MANAGEMENT OF GENDER DIVERSITY. Trans-inclusion guide for executives, HR managers, team-leaders and colleagues of transgender people in Romania, MozaiQ Romania Association, 2019, available at http://www.t-jobs.org/uploads/2/3/9/7/23979604/ghid_angajatori_with_all_diacritics_.pdf

⁶ Press release, MozaiQ Romania Association, 05.07.2021, available at <https://www.mozaiqlgbt.ro/2021/07/persoanele-transgender-continua-sa-fie-discriminate-de-autoritatile-romane/>

⁷ Article "X and Y v. Romania: the 'impossible dilemma' reasoning applied to gender affirming surgery as a requirement for gender recognition", by Sarah Schoentjes, PhD and Dr. Pieter Cannoot, 25.02.2021, available at: <https://strasbourgobservers.com/2021/02/25/x-and-y-v-romania-the-impossible-dilemma-reasoning-applied-to-gender-affirming-surgery-as-a-requirement-for-gender-recognition/>

challenges can lead to harassment in the workplace, to dismissal (when employed), even to pushing a transgender person into sex work, a type of informal and insecure work posing a risk to their physical integrity and without social rights and protection as a citizen.

A specific problem is the lack of access of transgender people to medical insurance for gender confirmation treatment. But perhaps one of the most glaring challenges faced by transgender people is the lack of recognition of the right to autonomous decision-making on gender determination, which is an international human rights standard. There is a need for training, information, and awareness-raising for law enforcement officers so that they treat transgender people with dignity, while facilitating existing legal procedures for identity recognition without the need for third-party attestation.

EU fundamental freedoms - still denied to same-sex families

Although the ECtHR has ruled on numerous occasions that same-sex families enjoy the right to family life, and that the signatory states of the European Convention on Human Rights must take measures for the legal recognition of these couples, a number of administrative issues in the area of freedom of movement and border situations involving citizens belonging to sexual minorities continue to arise⁸. Thus, the right to free movement continues to be a challenge for same-sex couples, who have registered civil partnerships

⁸ Article "The CJEU's judgment in Coman: a small step for the recognition of same-sex couples underlying European divides over LGBT rights", de Manon Beury, 24.07.2018, available at <https://strasbourgobservers.com/2018/07/24/the-cjeus-judgment-in-coman-a-small-step-for-the-recognition-of-same-sex-couples-underlying-european-divides-over-lgbt-rights/>

or marriage certificates legally concluded in another EU Member State, people who face atypical bureaucratic situations when applying for the renewal of identity documents at the Romanian population registration offices or at the Romanian consulates in the EU area and are, for example, unable to declare a legal document drawn up in another Member State and a marital/family life status, for the simple reason that the Romanian state does not recognize those civil status documents. Not recognizing legally same-sex families entails a whole series of rights that are violated for these citizens: e.g. free movement of capital (impossibility for these families to open a joint account or take out a housing loan), the right to inheritance, the right to visit one's partner and to approve medical interventions when the situation requires it, etc. There is also a need for recognition of birth certificates of transgender people in all EU Member States, independent of other administrative or judicial procedures.

Establishing and implementing the principle of Diversity-Sensitive Funding

European and national budget funding should be awarded following a *diversity audit* at both funder and beneficiary level. A clause on the understanding of European legislation on equal treatment and non-discrimination in public funding contracts should be introduced and the eligibility and selection criteria for beneficiaries should include the proof that they put these principles into practice in their own organisational culture.

Recommendations:

Based on the set of general issues outlined above, a number of **recommendations** emerge:

For central public authorities

- To incorporate the principle of 'intersectionality' as a cross-cutting principle in public policy: sexual orientation, gender identity/expression and/or sexual characteristics are taken into account alongside other characteristics of personal identity;
- To initiate public consultation for the development and adoption of *the LGBTIQ Equality Strategy 2020-2025* and ensure synergy with the other strategies (National Roma Inclusion Strategy 2021-2027, the Victims' Rights Strategy, the Gender Equality Strategy, the EU Action Plan to Combat Racism, the Disability Rights Strategy and the Strategy for the Rights of the Child);
- To take steps in creating a school environment open to diversity, sensitive to intersectionality issues such as ethnicity/sexual orientation/identity or gender expression, while actively analysing and combating harassment, bullying and victimisation;
- To constantly take measures to promote children's rights and provide continuous training for social workers on the vulnerabilities of LGBTIQ Roma beneficiaries from disadvantaged backgrounds;
- To take measures in raising awareness of medical and social services, provide additional safe shelters, develop programmes to assist victims of abuse, domestic violence, hate crimes and hate speech;

- To provide basic and ongoing training for doctors, teachers, social workers, law enforcement officers, etc. to raise awareness of the specific needs of LGBTIQ Roma minorities;
- To implement active employment policies and to introduce an LGBTIQ and anti-racism perspective in employment plans.
- To review existing procedures, house rules and practices for mainstreaming and ensuring implementation of diversity principles in the workplace;
- To actively combat acts of intolerance, hate speech and crimes motivated by racial hatred and/or homophobia/transphobia;
- To take all necessary measures to facilitate the correlation between the factual and legal situation following difficult procedures for changing identity documents in the case of trans persons; to invest in continuous training for law enforcement or medical authorities to raise awareness of racism, homophobia/transphobia in law enforcement;
- To take steps in training law enforcement authorities, resulting in transgender people being treated with dignity, and to facilitate existing legal procedures for recognition of identity without the need for third party attestation;
- To remove any legal barriers to the recognition of the right to family life and same-sex partnerships;
- To take measures to remove barriers to accessing the right to identity;

- To take the necessary steps to ensure full and equal citizenship rights for same-sex families;
- To introduce a *diversity audit* in the national and European funding system.

For private employers

- To adopt plans setting out concrete measures, protocols and tools to combat intersectional discrimination in the workplace;
- To actively combat acts of intolerance, hate speech and crimes motivated by racial hatred and/or homophobia/transphobia;
- To ensure the creation of a safe workplace open to diversity.

For civil society

- To conduct information and awareness-raising campaigns in Roma communities on diversity issues and vulnerabilities faced by young people, members of sexual minorities;
- To carry out information and awareness campaigns among the LGBTIQ community on anti-Roma racism;
- To call on local authorities to provide safe spaces for victims of racism and homophobia/transphobia abuse;
- To actively combat acts of intolerance, hate speech and crimes motivated by racial hatred and/or homophobia/transphobia;

About the project

The project "INTERSECT – Changing the narrative of discrimination" aims to combat Roma discrimination through activities that raise awareness of the level of discrimination and its negative impact on society; it includes a major component of empowering Roma youth at a local level and promoting their direct participation in the development, implementation and monitoring of activities and policies that affect them. The project also supports the empowerment of a Roma and pro-Roma civil society at a local level.

The project specifically targets LGBT Roma and aims to put intersectionality and multiple discrimination on the public agenda.

The project is coordinated by CLR - Centre for Legal Resources and implemented in partnership with the following organisations: ACTEDO - Action Centre for Equality and Human Rights, MozaiQ LGBT Association and UCTRR - Civic Union of Young Roma from Romania.

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