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icon for sexual orientation and special needs

Sexual orientation, gender identity or expression, and sex characteristics (SOGIESC) are reasons to seek international protection in many cases. SOGIESC may have a direct impact on a person's experience in the country of origin, may constitute the key reason for having to flee a country (i.e. gender-based persecution) and may impact the journey through transit countries in the pursuit of safety. These aspects can also have an impact on an asylum applicant’s experience in the destination country, and it should be ensured that effective protection is provided in a suitable manner for the specific context and in full respect of fundamental rights and human dignity.

In 2023, national authorities made strides in improving asylum and reception systems for applicants with diverse SOGIESC. Courts stepped in and overturned several negative decisions for protection to ensure protection for this profile of applicants. UNHCR published a stock-taking report on its progress in the protection of LGBTIQ people in situations of forced displacement since its 2021 roundtable. The report analyses capacity development, access to the asylum procedure, safe data collection, resettlement and complementary pathways, outreach and community engagement, health and other services, economic inclusion and organisational leadership.1027

Building on its previous strategy, Malta launched its third LGBTIQ Equality Strategy and Action Plan 2023-2027. The 2018-2022 action plan achieved many results, including an information leaflet on Maltese legislation related to LGBTIQ equality and asylum procedures which is available in six languages, amendments to the Procedural Standards for Granting and Withdrawing International Protection Regulations (S.L.420.07) which extends protection to those at risk of persecution on the grounds of their gender expression and sex characteristics, and the ministry’s SOGIESC Unit trained 30 staff members and 120 security and administrative personnel working for AWAS.1028

The federal government in Germany launched a new funding programme with EUR 20 million available for 2023. The programme aims to ensure that counselling during the asylum procedure, which is voluntary, is independent of the authorities,1029 includes legal advice for

LGBTIQ persons, victims of torture and other vulnerable groups seeking protection and better identifies vulnerable applicants who have special needs in the asylum procedure or for their accommodation because of their age, SOGIESC, disability, serious mental or physical issues, for example as a result of torture or the experiences of war and conflict in their home country.

As part of its LGBTIQ inclusion work, the Organisation for Economic Cooperation and Development (OECD) published a first country review on Germany. The report includes an overview of measures which have been taken in reception facilities of federal states to ensure the safety of LGBTIQ applicants.1030

Civil society organisations were also active in raising awareness and providing support and information to applicants with diverse SOGIESC. Ghent University in Belgium, in collaboration with NANSEN, published a practical guide which focuses on the meaning and implications of a gender-sensitive asylum procedure. The guide is accompanied by a thematic tool with legal, academic and policy information that can be used in gender-related procedures for international protection.1031

OII Europe published a flyer with information on the specific needs of intersex refugees and asylum seekers. It also presents a list of recommendations on current migration policies.1032

The European Parliament published a study which examines the progress made over the past 3 years with the implementation of the European Commission's LGBTIQ equality strategy. The study compared the key actions proposed with the key actions that have been taken until November 2023, including the protection of LGBTIQ applicants in the context of CEAS.

On the occasion of Europride 2023, the EUAA published two fact sheets on LGBTIQ applicants, highlighting recent developments at the EU and national levels and jurisprudence related to this profile of applicants.

The Italian Ministry of the Interior published a handbookxlviion vulnerabilities which makes recommendations to ensure specialised training on SOGIESC for reception staff and safe and adequate reception and assistance measures.1033

A report from the Irish Department of Children, Equality, Disability, Integration and Youth made several recommendations to improve support to LGBTIQ applicants in accommodation centres in Ireland. The recommendations included updating house rules, training staff on SOGIESC-related issues and making a dedicated support worker available to LGBTIQ residents.1034

Greek NGO Fenix raised concerns about the policy to house SOGIESC with non-SOGIESC asylum applicants under the same roof and warned about the lack of safety and impact on their mental health. Similarly, it observed that dedicated areas for SOGIESC-specific housing within the camps could further result in isolation and stigmatisation of this group of applicants since they would be more visibly exposed.1035

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4.4.1. Case law related to SOGIESC applicants

Read more...

- 1027United Nations High Commissioner for Refugees. (June 2023). *Protecting LGBTIQ+ people in situations of forced displacement: A Stocktaking on UNHCR progress since the 2021 Roundtable*.

- 1028Human Rights Directorate. *LGBTIQ+ Equality strategy and action plan 2023-2027*.

- 1029Gesetz zur Beschleunigung der Asylgerichtsverfahren und Asylverfahren [Law to accelerate asylum court procedures and asylum procedures], January 1, 2023.

- 1030Organisation for Economic Cooperation and Development. (2023). *The Road to LGBTI+ Inclusion in Germany: Progress at the Federal and Länder Levels*.

- 1031NANSEN, the Belgian refugee council. Input to the Asylum Report 2024. https://euaa.europa.eu/sites/default/files/2024-02/nansen_the_belgian_refugee_council.pdf

  ANSEN, the Belgian refugee council. (September 2023). *Guide Pratique pour les avocat/es Procédures de Protection Internationale Liées au Genre Violences sexuelles ou basées sur le genre, orientation sexuelle et identité de genre [Practical Guides for Lawyers International Protection Procedures Liées au Genre Sexual Violence or Based on the Genre, Sexual Orientation and Genre Identity].*
- 1032OII Europe. (2022, December 7). *OII Europe Intersex Refugees & Asylum Seekers Flyer* .

- xlviiThe Department of the Civil Liberties and Immigration developed the handbook in collaboration with the National Commission for Asylum, Department of Public Security, Ministry of Health, the EUAA, European Commission, Frontex, UNHCR, the IOM, UNICEF, Italian Red Cross, Italian Coast Guard, Central Service for the Management of SAI and other stakeholders.
- 1033Ministry of the Interior | Ministero dell'Interno. (2023, June 21). *Accoglienza: on line il vademecum per la rilevazione, il referral e la presa in carico delle persone portatrici di vulnerabilità [Reception: the handbook for the detection, referral and taking charge of vulnerable people is online]*. https://www.interno.gov.it/it/notizie/accoglienza-line-vademecum-rilevazione-referral-e-presa-carico-persone-portatrici-vulnerabilita
- 1034Department of Children, Equality, Disability, Integration & Youth | An Roinn Leanaí, Comhionannais, Míchumais, Lánpháirtíochta agus Óige. (2023, September 12). *LGBTI+ people living in International Protection Accommodation Services (IPAS) accommodation: Best practices and lived experiences* . https://www.gov.ie/pdf/?file=https://assets.gov.ie/270065/7402ae04-56f0-481a-8520-87e63a1d6c54.pdf#page=null

- 1035Fenix. (2023, May 17). *No Safe Place: SOGIESC Asylum Seekers & Reception Conditions Policies*.

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