



The work of FRA and free movement

Equality bodies and the new freedom of movement directive – challenge or opportunity?

Equinet Conference, 8 December 2015



Gabriel N. Toggenburg

The work of the FRA on free movement and nationality-based discrimination

Free movement as a human right

“All merchants may enter or leave England unharmed and without fear, and may stay or travel within it, by land or water, for purposes of trade In future it shall be lawful for any man to leave and return to our kingdom unharmed and without fear, by land or water. . . .”

Magna Carta 1215

800 years the *“cives europeus sum”* is to be found in:

Art. 45 Charter of Fundamental Rights of the European Union

“1. Every citizen of the Union has the right to move and reside freely within the territory of the Member States.

2. Freedom of movement and residence may be granted, in accordance with the Treaty establishing the European Community, to nationals of third countries legally resident in the territory of a Member State.”

FRA and free movement – limited experience

Legal analysis LGBT

- Homophobia and discrimination on grounds of sexual orientation in the EU Member States - Legal Analysis (June 2008)
- Homophobia, transphobia and discrimination on grounds of sexual orientation and gender identity (November 2010)
- Protection against discrimination on grounds of sexual orientation, gender identity and sex characteristics in the EU- Comparative legal analysis, update (December 2015)

LGBT survey

- EU LGBT survey (main results published in October 2014)

Research on **mobile Roma EU citizens** in FR, FI, IT, ES and UK

- The situation of Roma EU citizens moving to and settling in other EU Member States (November 2009)

Free movement and the concept of family

Art 2 of the FMD defines family amongst others as:

- (a) the spouse;
- (b) the partner with whom the Union citizen has contracted a registered partnership, on the basis of the legislation of a Member State, if the legislation of the host Member State treats registered partnerships as equivalent to marriage and in accordance with the conditions laid down in the relevant legislation of the host Member State;

Free movement and same-sex partnerships

In 9 Member States neither registered partnerships nor marriages exist for same-sex couples: BG, CYP, EL, IT, LV, LIT, PL, RO, SK. In all of these (apart from LV and SK) same-sex couples do not qualify as family members in the context of free movement (or the situation is unclear).

19 Member States grant entry and residency rights to same-sex registered partners (in 2010: 14): AT, BE, CZ, DK, FL, GE, HU, IE, LU, NL, PT, ES, SE, UK, FR, LV, MT, SLO, SK

Free movement and same-sex marriages

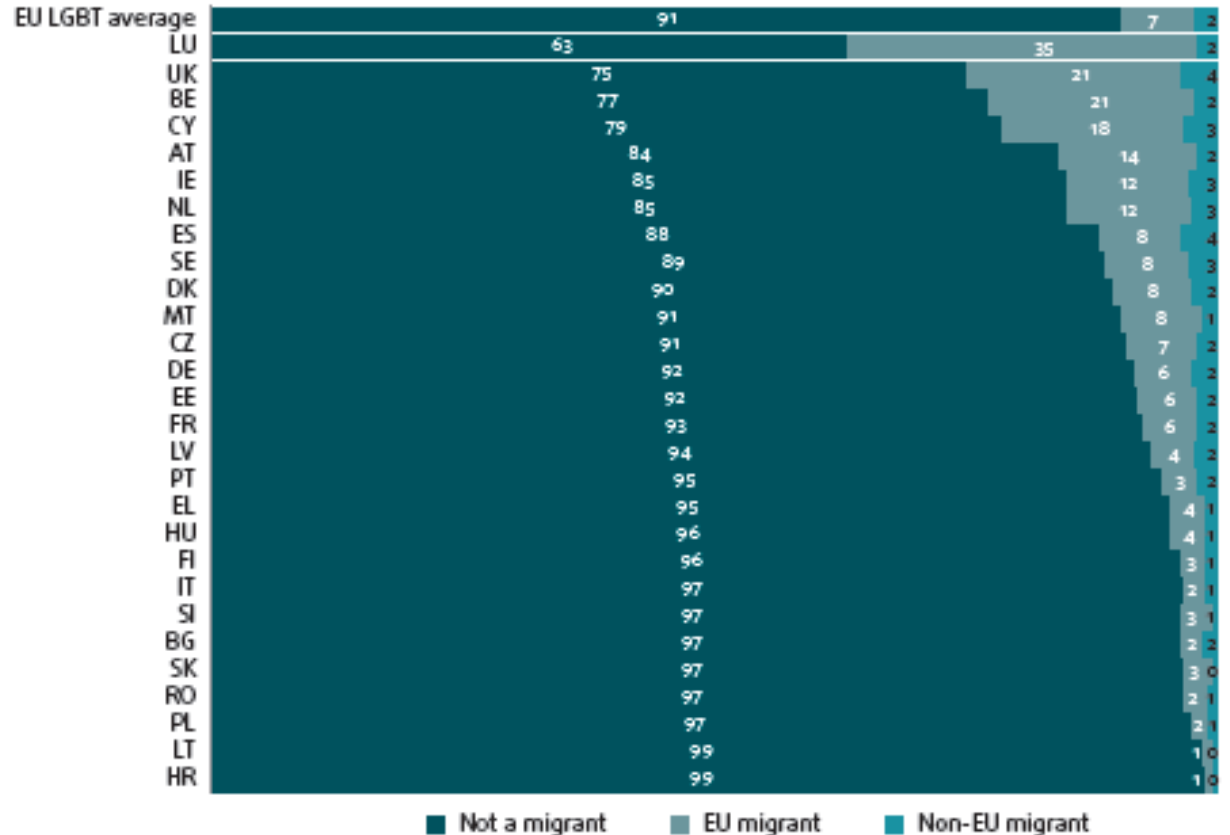
12 Member States do not distinguish between same-sex and different-sex spouses for the purpose of free movement (in 2010: 8): BE, DK, FR, IE, IT, LU, MT, NL, PT, ES, SE, UK (the 11 that allow for same sex marriages plus IT and MT)

In 5 Member States a marriage between persons of the same sex entered into abroad is equated to a registered partnership: AT, CZ, FI, GE, SLO

In 4 Member States the situation is unclear: EST, LIT, HR, RO

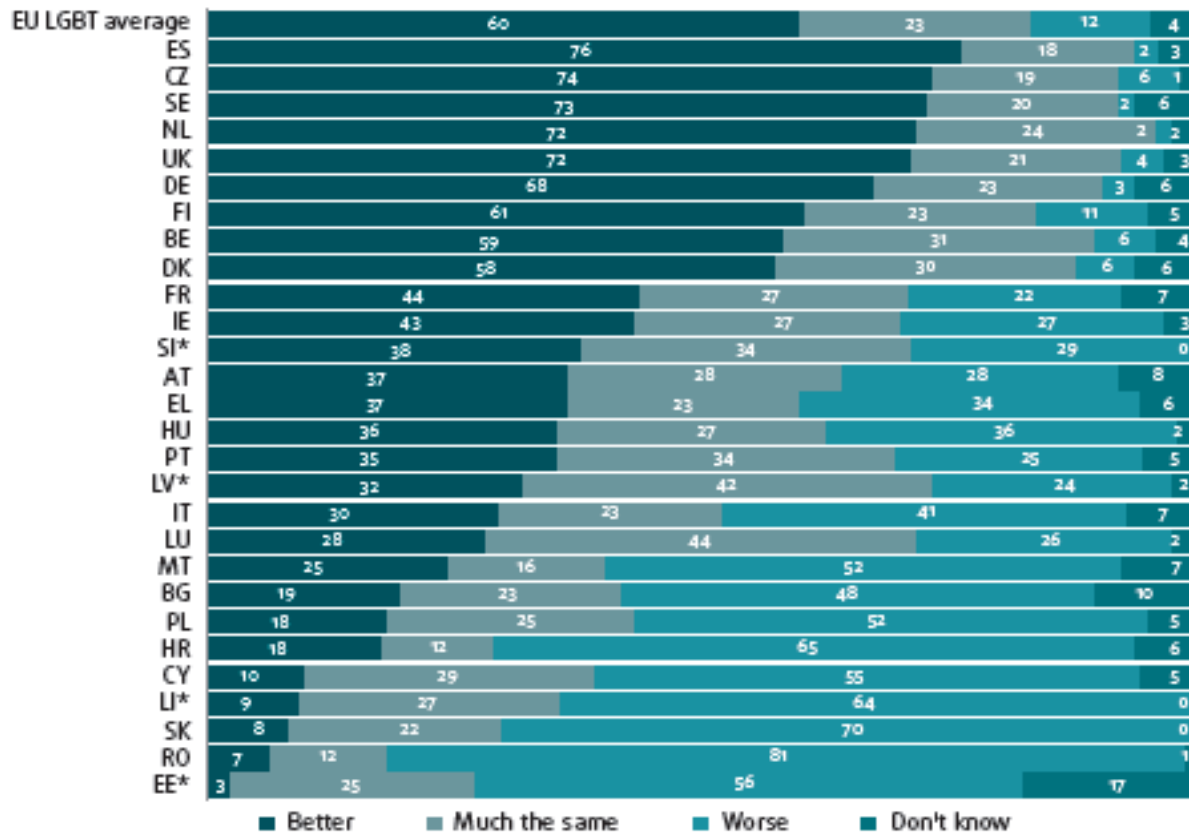
Mobile EU citizens in LGBT survey

Figure 67: Nationals and non-national respondents in the EU LGBT survey, by country (%)



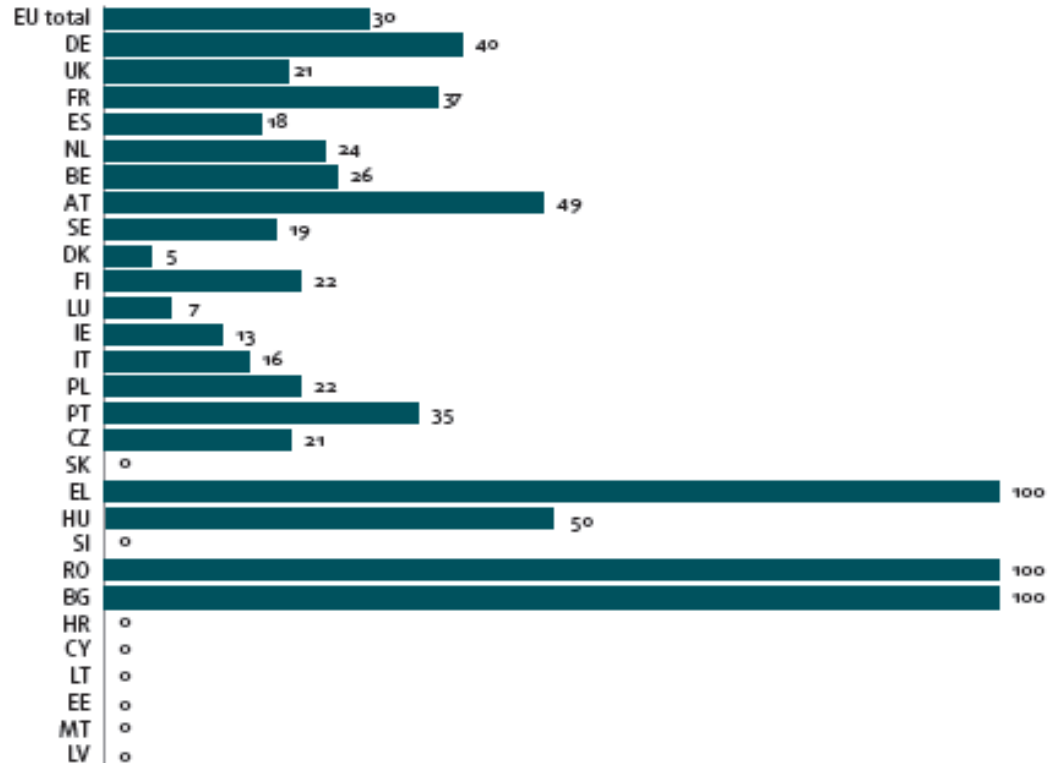
Country evaluation by LGBT citizens

Figure 68: Evaluation of the social environment for LGBT people in the country of residence compared to home country, by country (%)



Experiences of spouses or reg. partners

Figure 69: Respondents who moved to a different country with married or registered same-sex partner having experienced denial or restricted access to any benefits or services that would have been available for a different-sex spouse or partner because of having a same-sex partner, by country



Roma report 2009

- 165 Roma interviewed in five locations in each of the five countries (plus 37 local authorities officials and 49 NGOs)
- Identification of push and pull factors
- Experiences when crossing borders, registering of residence
- Experiences and policies with regard to access to employment

EU Treaties

Council Reg. 168/2007 15 Feb 2007 (FRA)

MAF: Multi-annual Framework (2013-2017)
9 Thematic Areas

- a) Access to justice
- b) Victims of crime, including compensation to victims
- c) Information society & private life
- d) Roma integration
- e) Judicial cooperation, except in criminal matters
- f) Rights of the child
- g) Discrimination on all grounds
- h) Asylum, immigration and integration
- i) Racism, xenophobia & related intolerance

AWP 2015

AWP 2016

AWP 2017

AWP 2018

Freedom

Inter-Agency: borders, asylum, etc.
 Severe forms of labour exploit.
 Biometric data in large databases
 Intelligence and surveillance
 Social inclusion and participation

Inter-Agency: borders, asylum, etc.
 Severe forms of labour exploit. II
 Biometric data in large databases
 Intelligence and surveillance
 Social inclusion, migrant particip.

Inter-Agency: borders, asylum, etc.
 Severe forms of labour exploit.
 Biometric data in large databases
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 Social inclusion, migrant particip.

Equality

Antisemitism: data, training, etc
 EU-MIDIS II
 Surveying LGBT+ local authorities
 Rights of persons with disabilities
 Roma
 Children and justice
 WP on hate crime
 HB on rights of the child

Antisemitism: data, training, etc
 EU MIDIS II
 HB on non-discrimination (update)
 Rights of persons with disabilities
 Roma
 Free movement
 Children and justice
 Child well-being and poverty
 WP on hate crime
 HB on rights of the child

Antisemitism: data, training, etc
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 WP on hate crime
 Barriers for older people
 CRPD monitoring

Justice

Prisons and detentions
 HB on access to justice
 Violence against women
 Clarity
 Fundamental rights survey
 Rights of victims of crime – A2J
 Rights in criminal procedures

Prisons and detentions
 HB on access to justice
 Fundamental rights survey
 Rights of victims of crime – A2J
 Improving access to justice
 Rights in criminal procedures

Fundamental rights survey
 Rights of victims of crime – A2J

Additional activities for all areas

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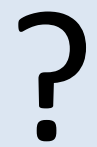
Cross-cutting

Annual Reports
 FRA conferences
 Stakeholder, communication, etc
 Bodies (MB, SC, etc)
 Monitoring and evaluation
 Complimentary data collection

Annual Reports
 Fundamental Rights Forum
 Stakeholder, communication, etc
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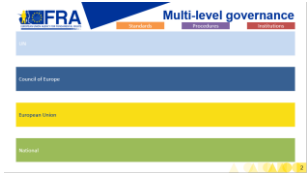
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Lighter boxes indicate 3rd priority projects

Thanks!



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