

March 1, 2024

To: U.N. Working Group on Business and Human Rights

Re: Call for input for the Working Group's report on respecting the rights of LGBTI people in the context of business activities: fulfilling obligations and responsibilities under the UNGPs

Dear Working Group,

EDGE is a leading association of Italian LGBTI managers and entrepreneurs working to promote and advocate Diversity & Inclusion (D&I) in businesses and the economy as a whole.

This paper aims at contributing at the call for input in connection with the ongoing analysis by the Working Group designed at providing further gender-related guidance to both States and businesses to adopt a LGBTI lens in implementing the UNGPs. In order to ease the review by the Working Group, this contribution has been drafted following the questions addressed to stakeholders other than States.¹

Answer to Question No. 1

How much wealth do we lose by discriminating? And how much of it do we create, and of what quality and depth, if we systematically break down the discriminatory barriers posed against minorities?

In the long journey that every LGBTI person undertakes to affirm their identity in the society in which they live, the sphere of work and business for reasons of natural succession of life stages comes after having passed through that of personal identity, of relationships within the family, and then the school and peer community, and then the social sphere.

This is why in countries where there are many and persistent social, cultural, ideological and legal obstacles and heavy prejudices against the free affirmation of one's sexual orientation and gender identity or sex characteristics, the freedom to be out and proud in work and business is one of the most difficult and maybe the last one to achieve and a specific legal framework is needed.

¹ Available at the following link:
www.ohchr.org/sites/default/files/documents/issues/business/cfis/lgbti/LGBTI-questionnaire-other-stakeholders-EN.pdf.

Why? From the point of view of LGBTI people because of the unjustified fear of not being considered equal and up to the challenges that the world of professions and business poses, for fear of losing clients, opportunities and business due to prejudice.

External discrimination against LGBTI workers, professionals and entrepreneurs includes discriminatory laws, policies, attitudes and practices in the communities where companies operate that do not promote inclusive workplaces and inclusive business practices up and down the supply chain. These discriminations can be even stronger if, in addition to sexual identity, prejudices linked to a person's race, age, ethnic origin or form of disability are added.

The intersecting and multiple forms of discrimination translate into employment discrimination (from harassment to access to parental benefits), access to funding, housing and accommodation (incl. business travels and relocations), education, access to healthcare (e.g. in terms of doctor-patient relationship), the limitation, especially for transgender people, of access to insurance coverage or, in relation to the banking system, to credit lines and loans both in the consumer and business sectors.

Finally, for example, in the travel and hospitality world or even in the banking and finance sector, destination and consumer preference is also based on social dispositions or behavior towards racial or gender conditions, and this has a significant impact from a labor point of view as managers, entrepreneurs or corporate employees (as well as founders and businessmen) will be directed by their companies or choose locations to work or do business based on the level of freedom and rights recognized.

Social and economic rights, such as the right to express oneself and assert oneself in the field of work, professions and business without any form of prejudice or discrimination, require the recognition of human and civil rights as a necessary prerequisite.

This is the reason why supporting and advocating for the growth of freedoms and rights of LGBTI people in work and business means acting for social justice.

Answer to Question No. 2

Italy implemented EU legislation to tackle discrimination of LGBTI people in the workplace and some business environments (first of all Dir. 2000/78/CE). Relevant national legislation provides for a ban from contracting with public administration for any enterprise sentenced for discrimination, but such consequence is not recalled in the public procurement law and seems ineffective.

Protection of trans people is not granted on sexual orientation grounds under such legislation. Protection is supposed to be granted on gender grounds but we don't have evidence of such cases.

The contrast to discrimination of LGBTI people in the workplace and business environment is part of the National LGBT+ Strategy 2022-2025 that was approved under the previous government and has seen very limited implementation under the current one. Such document was issued after a long and participated process, involving grassroots associations and various Ministries; its main forum for discussion and action was the UNAR, the Office against Racial Discrimination set up at the Prime Minister's Office several years ago and which has over time also taken on the role of governmental body in charge of implementing public anti-discrimination policies and actions towards the LGBTI community.

Also the second Italian action plan on business and human rights promotes an action to foster the adoption of diversity management practices with a specific mention of LGBTIQ+ people.

The Italian Public Administration Labor Contracts Agency (ARAN) and trade unions recently negotiated in the context of certain labor national contracts (s.c. CCNL) a clause granting the right to an *"alias career"* for trans employees. Such provision allows trans people to use a chosen name in almost all touchpoints of the work life before a judgment is issued to grant it permanently, following a private sector voluntary practice.

At national level only the Central Bank appointed a diversity manager in charge also of LGBTI issues, while the same role is present in some municipalities and in some public owned enterprises.

A clear indication that discrimination of minorities is within the scope of whistleblowing procedures could improve the redress system.

Recent public procurement reforms provided for an incentive mechanism that rewards actions and programs for the inclusion based on gender, age and disability but not sexual orientation and/or gender identity.

Answer to Question No. 3

In recent years, a significant number of Italian and European multinational companies have gone well beyond relevant legal obligations, leading the way towards a more inclusive approach towards LGBTI people (and diversity as a whole). This happened regardless of whether such companies

have formally applied a human rights due diligence process (either voluntarily or based on existing legal obligations).

In this respect, they have actively undertaken actions designed at fighting discrimination against LGBTI people, promoting an inclusive working environment, and ensuring accountability. In virtually all cases, companies have adopted strong commitments within their Code of Conduct to both express a zero tolerance towards all forms of discrimination and foster a culture of diversity and inclusion. In multiple cases, such commitments have also been formalized in dedicated policies and procedures, which are not always publicly available. From what we have seen, a thorough commitment within the Code of Conduct is probably sufficient on a non-discrimination standing point, although policies and procedures detailing relevant roles and responsibilities, as well as the actions to be taken, certainly help achieve relevant diversity and inclusion objectives.

Companies that have established thorough human rights due diligence processes regularly assess the risks associated with discrimination, including of LGBTI people, as part of their risk assessment. Such exercises also allow them to identify areas for improvement with respect to diversity and inclusion.

Multiple companies have also established dedicated Inclusion Committees (composed by employees joining on a voluntary basis and supported and sponsored by a member of the Executive Committee) that are responsible for defining the roadmap designed at identifying the actions aiming at fostering diversity. Promoting voluntary initiatives by employees and providing them with adequate funding is key for the success of programs designed at fostering diversity and inclusion, including with respect to LGBTI people.

As a matter of example, Boeing – the world’s largest aerospace company – has created the Boeing Employee Pride Alliance (BEPA), a network to drive changes in company policies, providing support to its members and promoting activities to raise awareness about the community. Another example is provided by Unity Rainbow, an LGBTI employee network established within consulting company E&Y. The network organizes various in-person events to educate and sensitize employees, shares best practices and presents and discusses recent developments and findings with EY’s Senior Leadership, so they are educated on LGBTI matters and enabled to deliver better company strategies.

Multiple Italian companies (including Gucci and Intesa Sanpaolo) cooperate with external non-profit associations – such as Parks - Liberi e Uguali or EDGE – for the development of diversity strategies and best practices. Intesa Sanpaolo also allows transgender people to present themselves in the work context by the name of choice, both in relationships and in communication

tools. While doing so, Intesa Sanpaolo conducts targeted initiatives designed at raising the awareness of relevant team workers.

Bigger corporations are also implementing programs dedicated to educating their suppliers (a project named “ForAll” was started in Italy 4 years ago).

In some cases, selected SMEs (e.g. Vector s.p.a.) also started smaller inclusion programs dealing with their workforce and local communities.

In the public administration organization, the Comprehensive Guarantee Committee (CUG), initially established for gender inclusion now has a wider scope, covering also LGBTI inclusion, even if few initiatives are known.

Answer to Question No. 4

N/A

Answer to Question No. 5

As noted above, multiple multinational companies have now put their zero-tolerance policy towards discrimination, as well as diversity and inclusion, at the core of their corporate values, and have developed diversity and inclusion programs benefiting, inter alia, LGBTI individuals. In addition to the examples mentioned above, companies having adopted specific initiatives designed at fostering a diverse and inclusive workspace include Accenture, Google, IBM, Microsoft and Unicredit².

While the corporate world is leading the change in the right direction, public institutions have not yet dedicated the same attention to these subjects and discrimination and harassment behavior is still eminent within such institutions.

As further noted above, UNAR is the Italian governing body responsible for promoting the principles of non-discrimination, including with respect to LGBTI people. Every three years, UNAR prepares a strategic plan calling for the development of concrete actions to address the issues brought before a Consultation Table for the Protection of LGBTI Rights, which comprise multiple associations. Nonetheless, the actions undertaken to date still did not allow for satisfying results. We believe this is also because UNAR is part of the Department for Equal Opportunities of the

² A wider, even if non-exhaustive list can be found at <https://www.parksdiversity.eu/cos-e-parks/i-soci/>.

Italian Prime Minister's Office, and therefore lacks the independency that is required to achieve relevant objectives (regardless of the views of the governmental political agenda).

Answer to Question No. 6

At European level over the past few years, two different umbrella organizations, EGLCC and EPBN, have been formed and are operating strongly both individually in individual countries and with concerted and shared actions at European level and vis-à-vis the European institutions.

In June 2019, several LGBTQI national associations founded the European LGBTIQ Chamber of Commerce (EGLCC), the pan-European advocacy group for LGBTI-owned European businesses. EGLCC now consists of 7 associations from Scandinavia, Austria, Germany, BeNeLux, Spain, France and Italy and is the advocacy group for LGBTI owned businesses. Building on outreach of its local and regional chambers, EGLCC activates opportunities for growth by connecting the LGBTI businesses with corporations who value stronger inclusiveness and diversity in their supply chain. How?

- leveraging growth in the national communities
- providing a single database of European LGBTI suppliers
- fostering Europe-wide advocacy and institutional partnerships
- sharing best practices and resources
- exploring and allowing for new business opportunities
- promoting supplier diversity and inclusion as leverage for economic growth
- helping LGBTIQ individuals in their coming out in business.

The strength of this initiative relies upon its network and the alliance with the corporate world convinced that practicing a higher level of D&I in business turns into a broad benefit for everyone at different levels. The network of EGLCC's supporting multinational corporate companies and allies is wide and composed of Accenture, Johnson and Johnson, Dow, Msd, Unilever, Barilla, Sony, IBM, Jll, Yara, Audi, Intel and Bayer.

On the other hand, Europea Pride Business Network (EPBN) is the European umbrella organization for LGBTIQ workplace equality. It was established in 2022 with a vision of combating and preventing discrimination of LGBTIQ people at work and promoting LGBTI inclusion and equity in the workplace across Europe. It currently unites 15 organizations from 12 countries (Austria, Croatia, Czech Republic, France, Germany, Hungary, Italy, Poland, Slovenia, Spain, The Netherlands and Switzerland).

The main focus of EPBN are workplaces: according to the EU Fundamental Rights Agency everyday discrimination of LGBTI people persists in Europe. The results of a survey conducted in 2012 and in 2019 show almost identical numbers, and in some countries, discrimination at work even worsened.

The goal is to foster a united European front to promote inclusion of LGBTI people in employment by creating a strong network of civil society organizations, employers, and LGBTI professionals and leveraging tools like role modeling, networking, leadership training and mentoring.

Answer to Question No. 7

Promoting diversity and inclusion within businesses and public institutions would not only benefit employees, but also bring several benefits to companies. Multiple studies have shown that companies that are more inclusive are more likely to outperform, in terms of financial performance, companies in which diversity is not valued.³ Diversity and inclusion should be looked at as a competitive factor that affects the ability of companies to attract and retain talent, the well-being of workers (and organizations as a whole), corporate reputation and individual and corporate performance.

Fostering diversity and inclusion practices would also benefit the community as a whole. In this regard, EDGE has promoted in 2020 and in 2024 a study,⁴ designed at assessing the correlation between the inclusion of LGBTI people and economic development, that is strongly confirmed. The study proposes an innovative index to measure inclusiveness at a national level, based primarily on the number of civil unions per year (as Italy does not yet allow same-sex marriages) combined with an extended set of socio-economic development indicators at a local level.

The study shows how inclusiveness and local economic development are strongly correlated and how the more inclusive a territory is, the more it attracts new residents. The research has also shown how inclusion is a triggering factor for economic and social development. The correlation between LGBTI inclusion and level of wealth is strong. Inclusive territories are those with a higher employment rate and average *per capita* income.

³ See, e.g., World Economic Forum and McKinsey & Company, *Global Parity Alliance: Diversity, Equity and Inclusion Lighthouses 2023* (January 2023), available at www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-equity-and-inclusion-lighthouses-2023.

⁴ Available at www.edge-glb.it/report-tortuga/. Other relevant studies include multiple reports prepared by Open For Business since 2015 (available at <https://open-for-business.org>).

Why does LGBTI inclusion give this particular boost to the growth of a territory? LGBTI inclusion does not come alone, it brings people showing resilience in the face of obstacles and prejudices and shows a territory and a community open-minded and open to change and innovation, able to understand and welcome the uniqueness of everyone.

Promoting diversity and inclusion is in the interest of everyone, to promote human and civil rights and generate opportunities for local development and make the areas in which companies operate more attractive.

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