

Making Sense of the Victims' Rights Directive & Equality Bodies Directive



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OII Europe 'Making Sense of the Victim's Rights Directive & Equality Bodies Directive' Brochure

The EU Victim's Rights Directive

What it is:

The **EU Victims' Rights Directive** ((EU) 2026/1472) is a core legislative framework establishing minimum standards on the rights, support and protection of victims of crime across all 27 EU member States. It aims to ensure that all victims of crimes are treated respectfully, are provided with **tailored support** and that they are **protected from secondary victimization**.

The Victims' Rights Directive (VRD), originally enacted in 2012, was revised and significantly updated starting in 2022, terminating in official adoption in 2026. The revised directive strengthens specific provisions such as:

- Right to information & support
- Protection & safety measures
- Access to justice (including access to legal aid)
- Improved reporting mechanisms
- A new EU-wide victim's helpline (116 006).

The newly adopted Directive applies to any crime committed in the EU, regardless of the victim's nationality or residence status. Most importantly for intersex people, the new text of the Directive has **enhanced support measures for victims with specific needs**. Because it is a Directive, it is **legally binding**, and EU member States have until mid-2028 to transpose the text into national level legislation.

What is a Directive?

A "directive" under EU law is a binding legislative act that sets out a mandatory goal that EU member States must achieve. However, Directives leave it up to the individual EU member State to devise their own laws on how to reach that goal. Normally member States are given a specific timeframe within which they must transpose the Directive into their national law(s).

Directives allow for slightly more flexibility, and are therefore different from a **regulation**. A regulation is also a binding legislative act, but it is more rigid in that it must be applied uniformly in its entirety across the EU the moment it is enacted. Regulations require no national-level rewriting. (Think for example about EU regulations on common roaming charges across the EU).

What is a 'recital'?

Recitals are the elements of a Directive that explain the reasoning and context behind the 'rules' being enacted in the legislative text. Recitals are usually located in the preamble of the Directive (the part before the articles start). They are mostly formatted as a numbered list of paragraphs, for example "(1)", but in some older directives, they frequently begin with the word "Whereas...". Recitals aim to capture things like the legislative intent, any important historical background information, the key social problems being addressed, or the objective of the Directive as a whole. It is very important to note that recitals are not legally binding, however they can still be highly influential, especially for example in Courts (like the CJEU).

What is an 'article'?

Articles are the 'meat' of a Directive, they contain the legally binding rules of the text. They lay down the concrete legal mandates, the specific definitions and scope of the rules, as well as the mechanisms through which those goals can be achieved. Because they are legally binding, meaning that EU Member States have an obligation to transpose the objectives and measures laid out in articles into their own laws at national level.

Key provisions of the Directive relevant for intersex rights are:

While the ground of sex characteristics is not explicitly mentioned in the text, the following provisions remain relevant:

- **Digital and Third-Party Reporting (recital 7 and 8, Article 5a)** allows victims of crimes to report certain criminal offenses online and submit digital evidence safely without needing to visit a police station.
Reporting rates among LGBTI persons are especially low, due to fear of LGBTI-phobic treatment and/or revictimisation. Therefore, this provision is very much welcomed for victims who may wish to report a crime digitally instead of in person. Third party reporting via civil society organisations is also possible, once a victim shares information regarding a crime to them directly.
- **Individual assessment (recital 23, Article 8 §2 &3 and Article 22)** : victims are entitled to and must receive an individual assessment to identify any specific protection and support needs, taking into account relevant experiences with discrimination, including on intersectional grounds.
This is relevant for intersex people, who face unique forms of bias-motivated violence, hate speech, and harassment, and impacts therefore on the kinds of support and protection measures they may require, including psychological support (recital 17).

- **Protection & Safety (Article 23):** It requires special protective measures for highly vulnerable victims and children, especially for those identified as having special protection needs during the individual assessment
- **Revictimisation (Article 22):** Under the directive, authorities must evaluate whether a victim is at a high risk of secondary victimization or intimidation during criminal proceedings.
 - For intersex victims of crime, this assessment should ideally trigger specialised safety measures, such as allowing the victim to request an interviewer of a specific gender to ensure they feel safe.
- **Right to immediate medical, psychological and trauma support (Article 9 §1c and §3b):** victims of sexual violence, victims of gender-based violence, including violence against women and domestic violence have their right to access specialised support and medical care reinforced.

The Directive also addresses two other key aspects, that are not specifically related to intersex victims of crime, but still important: They are namely provisions on:

- **Compensation (Article 16):** Member states are required to take measures to secure compensation from the offender, and governments may advance compensation payments to victims of violent intentional crimes if the offender fails to pay.
- **Data Privacy (Article 21):** Stronger safeguards ensure offenders cannot access victims' personal contact details, as well as safeguards relating to image protection (preventing the public dissemination of pictures and identifying details that could lead to secondary victimization).
- **Better coordination and training (Article 25)** the agreement strengthens training obligations for police officers, judges, prosecutors, and frontline professionals, while promoting stronger coordination between services supporting victims.

How does this Directive interact with other hard and soft law ?

The implementation of the VRD will run in tandem with the **EU LGBTIQ Equality Strategy**, as well as the **EU Directive on Combating violence against women and domestic violence**, both of which explicitly acknowledge, respectively, that intersex people are disproportionately exposed to, and therefore specifically vulnerable to, hate crimes as well as gender-based and domestic violence.

In addition, the recent **EU FRA Being Intersex in the EU report**, as well as the landmark **Council of Europe CM/Rec(2025)7**, have both called on Member States to classify

intersexphobic hate speech and hate crimes as specific criminal offenses, triggering the highest tier of protection under the VRD.

Equality Bodies Directive

Equality bodies are independent public organisations that **promote equal treatment, enforce EU and national anti-discrimination laws, and assist victims of discrimination.**

Within the architecture of EU equality law, the grounds named in the EU Equality Directives as well as in Article 19 of the Treaty of the Functioning of the European Union and Article 21 of the Charter of Fundamental Rights provide the **baseline reference** for combatting all forms of discrimination and exclusion.

The ground of sex characteristics is not *explicitly* mentioned, however the Charter of Fundamental Rights provides for the **equality of all persons before the law**, prohibiting discrimination in the application of European Union law on the basis of an extensive and **open-ended list** of protected characteristics.

In 2024, the EU **Directive on standards for national equality bodies concerning equal treatment and equal opportunities between women and men in employment and self-employment** ([\(EU\) 2024/1500](#)) was adopted, and with it, we saw the first ever explicit mention of **sex characteristics in an EU directive**, in the context of the **definition of a victim of discrimination**. This directive amends Directives 2006/54/EC on [gender equality in the labour market](#) and 2010/41/EU on [equal treatment between men and women in self-employment](#).

The Directive above was adopted in parallel to another Directive, in a package generally referred to as “The Equality Body Directives”. These two Directives establish the same minimum standards on the functioning of Equality Bodies. They only differ in respect of the legislative procedure through which they were enacted, the personal and material scope of their application and the previous Directives they amend.

What does this mean in practice?

In general, both Directives are important for intersex rights, in that they:

- Ensure that equality bodies have **stronger guarantees for their independence**
- Ensure that **necessary resources are allocated** to equality bodies to promote equality and **fight discrimination effectively**,

- Give equality bodies **adequate powers** to achieve the objectives of full equality and
- Provide them with wider mandates to cover all manifestations of discrimination.

The Directives also dictate that equality bodies must be empowered to **be more attentive to intersectional discrimination**.

Directive 2024/1500 states that when transposing the legislation, EU Member States should take a **unified approach** to understanding the term ‘victim’ as described in **Article 6** (see below). This means that **no person should be prevented from accessing assistance** for reasons related to their personal characteristics, **including sex characteristics** or any other status. This requires that equality bodies take an intersectional, adaptive and responsive approach to tackling discrimination, and that staff assisting intersex victims of discrimination must be sensitive to their needs and experiences.

Recital 23

“In addition to prevention, a central task of equality bodies is to provide assistance to victims of discrimination. Victims should be understood to encompass all persons who consider that they have experienced discrimination as referred to in Article 4 of Directive 2006/54/EC or in Article 4 of Directive 2010/41/EU, irrespective, for example, of their socio-economic status, political opinion, age, health, nationality, residence status, language, colour, level of literacy, gender, **gender identity, gender expression or sex characteristics**.”

Article 6

“Member States shall ensure that equality bodies are able to provide assistance to victims [...] For the purposes of this Directive, ‘victims’ mean all persons, irrespective, for example, of their socio-economic status, political opinion, age, health, nationality, residence status, language, colour, level of literacy, gender, **gender identity, gender expression or sex characteristics**, who consider that they have experienced discrimination within the meaning of Article 4 of Directive 2006/54/EC or Article 4 of Directive 2010/41/EU.”

The explicit inclusion of the ground of "sex characteristics" marks a milestone in the recognition of intersex people in EU legislation and policy-making. By including 'sex characteristics' in the definition of 'victim', it now means that equality bodies within their mandate, should properly address discrimination faced intersex people. In a time when discrimination against LGBTI people is on the rise, this is highly welcomed.

Note: the inclusion of the ground of 'sex characteristics' in the recital of the Directive does not officially establish it as a protective ground at EU level. However, it does provide interpretive guidance for the text, as well as to Courts and national authorities in understanding how to apply the binding articles of the Directive.

The grounds named in the EU Equality Directives and Article 21 of the Charter still remain the core natural reference set, as well as jurisprudence from the CJEU and ECtHR that include other grounds (such as gender identity).

Additionally, Equality Bodies are required (by Article 6(3)(e) to inform victims of “the **possibility of obtaining psychological or other types of relevant support** from other bodies or organisations”. Alongside this, intersex victims of discrimination must also be informed by equality body staff of the availability of services, the legal framework, remedies, confidentiality and data protection rules, and relevant processes and procedures.

Furthermore, the explicit inclusion of the ground of sex characteristics will contribute to further protection against discrimination for intersex people, as it has **created a precedent** for OII Europe and its member organisations to advocate for the inclusion of this ground in other policy initiatives. OII Europe and its member organisations will continue to work with equality bodies in the coming years, to raise awareness about the specific forms of discrimination experienced by intersex people, including in the area of employment.

How does this Directive interact with other hard and soft law ?

Directive [2022/0400](#) amends existing Directives [2006/54/EC](#) and [2010/41/EU](#) which cover the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including also in the area of self-employment.

It includes provisions to:

- strengthen the role and independence of equality bodies in the EU
- set minimum standards regarding their mandates
- add tasks independence, structure, powers, accessibility and resources

In June 2026, the **European Commission adopted an Implementing Regulation (2026/1196)** as promised in the LGBTIQ Equality Strategy 2026-2030, establishing indicators on the functioning of equality bodies, including in combating discrimination.

The Implementing Regulation aims to define the exact data EU Member States must collect to monitor national equality bodies' **resources, independence, accessibility, and operational results**. This will allow the Commission to gather data on which specific grounds of discrimination, in which areas, are covered by equality bodies at national level. This data will be highly valuable for continued civil society advocacy and engagement.

Additionally, the Council of Europe's **CM/Rec(2025)7** calls on CoE member states to **empower national equality bodies** to address discrimination against intersex persons by explicitly covering sex characteristics, handling complaints, and providing support. Equality bodies are also tasked with **monitoring the human rights situation**, raising public awareness, and **ensuring access to justice** for intersex people.

LINKS:

Link to the [EU Victim's Right Directive](#) ((EU) 2026/1472)



Link to the [EU Directive on standards for national equality bodies concerning equal treatment and equal opportunities between women and men in employment and self-employment](#) ((EU) 2024/1500)



[Equinet Civil Society Toolkit on Understanding the new EU Directives on Standards for Equality Bodies:](#)



[Equinet Legal Digest on Understanding the new EU Directives on Standards for Equality Bodies:](#)





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