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The PES LGBTI Roadmap

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Proposal adopted by Rainbow Rose General Assembly on 6th November 2016

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Human rights are universal and indivisible. They apply to all human beings, irrespective of their personal characteristics, including sexual orientation, gender identity, gender expression and sex characteristics. This is why lesbian, gay, bisexual, trans and intersex (LGBTI) people have to see all their rights strictly respected and guaranteed by means of appropriate legislation and policies.

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As a European party, and as a family of national political parties, the PES and its member organisations have a duty to work for the elimination of all breaches of LGBTI people’s human rights. As social-democrats, we have a moral obligation to lead by example, as the leaders of the progressive in Europe.

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This contribution identifies the main elements of a comprehensive PES roadmap on LGBTI people’s rights, based on the current human rights doctrine – including the jurisprudence of the European Court of Human Rights (ECtHR) and the application of the EU treaty principles – and on the best practices identified across the continent.

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The principles developed in this paper focus on EU legislation and on other aspects of European policies, bearing in mind that not all PES member parties operate in EU Member States. They also focus on areas of national competence, which are many when it comes to rules governing family life or civil status. Obviously, they include developments on international policies and solidarity, as a much-needed dimension of LGBTI-related policy-making in a globalised world.

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1. Legislative and political objectives: European level

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1. Areas of European Union competence

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One of the main PES’ reason to be is to make a difference in EU law and policies. For this reason, the following policy areas of EU competence should be mentioned in the Roadmap, and systematically mainstreamed in the party’s work programmes ahead of European elections and of pre-Council meetings.

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Equality and non-discrimination is an area of strong EU value added and has been so for now two decades. For this dimension to be preserved and reinforced, further consistent action is needed, particularly for the completion of the EU equality law framework with the adoption of full equality legislation in all areas of life, and for gender identity to be explicitly covered in all relevant EU instruments.

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Combating hatred and intolerance, including homophobic and transphobic violence together with all forms of bias crime, is an area of progress, where the EU should take the lead. The principle of an EU-wide hate crime legislation should be enforced with no delay. Competency-building and the dissemination of good practices, including as regards training of relevant professionals, is also essential and can be done in the frame of the existing EU legislation on victims’ rights.

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48 **The rights of asylum-seekers and refugees** are in big part determined by EU law. It is thanks to EU legislators, with
49 a key input by socialists and progressive, that sexual orientation and gender identity based persecutions are recognised
50 in law. More must be done for the personnel of asylum authorities to be appropriately trained and for safety to be ensured
51 throughout the steps of reception and procedure. There must also be support to LGBTI people who fear or experience
52 threats, harassment or assault in reception facilities. This should be a priority also taking in mind the recently opened
53 recast process of the Common European Asylum System legislation.

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55 **Equal freedom of movement for all families** is the way the EU can make a difference for LGBTI people's families.
56 Based on the last developments of human rights law in Europe, it has become an obligation to amend and apply EU law
57 consistently: this applies to freedom of movement rules applicable to EU citizens, family reunification for documented
58 third-country nationals, and other legislative areas such as parental leave and the coordination of social security systems.

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60 **Last but not least, the EU has a framework for the monitoring of fundamental rights and the rule of law** in the
61 Member States. Breaches of human rights can and must trigger reactions and sanctions by the EU's institutions. The
62 rights of LGBTI people should be no exception to this. Systematic rights violations such as the sterilisation requirement
63 for trans people's gender legal recognition, or inhumane practices applies to intersex children, should be closely
64 monitored and trigger strong reactions.

65 66 2. Non-EU aspects of European policies

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68 Other European intergovernmental organisations also have an impact in the area of human rights and the rule of law.
69 This is particularly the case of **the Council of Europe and of the Organisation for Security and Cooperation in**
70 **Europe, but also of cooperation for a such as the Union for the Mediterranean.** For dozens of European and
71 neighbouring countries, these organisations are the main international actors which can deliver messages and policy
72 pushes to make a difference in domestic life.

73
74 **The PES has members and associate or observer member parties in these countries.** Our European political family
75 has the resources to, and must act with consistency and solidarity, by providing tools for its representatives to take
76 leadership in the relevant parliamentary assemblies and cooperation fora and in all the relevant intergovernmental
77 instances. In particular, the Council of Europe has a competence to adopt recommendations in all human rights areas
78 and to monitor Member States' related performance. The OSCE has a competence as regards tolerance and non-
79 discrimination, with operational capacity-building programmes. The Union for the Mediterranean provides a space for
80 alliance building at institutional and civil society levels.

81 82 2. Legislative and political objectives: national level

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84 The PES is a family of national political parties, organisations and activists, founded on common human rights and
85 equality values. It should ensure that the values it promotes at EU level are also enforced by its members in their home
86 jurisdictions, including State level and infra-State level: federated entities, regions and local communities. The PES has
87 the capacity to, and must be proactive in the identification of best practices and in their dissemination across the
88 continent.

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90 Member parties' **mutual assistance aiming at political programme building** can be a powerful tool. Equipping
91 member parties can be done by the creation of appropriate coordination and exchange platforms. Initiatives of member
92 parties should be encouraged in this direction. European socialists have the resources to take leadership! The PES can
93 open room, internally, for such cooperation, setting clear criteria based on equality achievements and the effective
94 enforcement of human rights principles, conform to the developments in the jurisprudence of European Courts (e.g. the
95 European Court of Human Rights regarding family law, equality law and hate crime; and the Court of Justice of the EU
96 regarding equality legislation in the EU). A particular attention should be dedicated to the rights of trans and intersex
97 people, with focus on legal gender recognition human rights based models and depathologisation, and on the removal
98 of forced unnecessary medical interventions on both trans people and intersex children.

99
100 **Combating the instrumentalisation of LGBTI people's rights** against other minorities has become an emerging area
101 of much-needed cooperation. A worrying trend in parts of Europe is the shameless use by the political right-wing of
102 LGBTI people's (but also women's) legitimate concerns caused by stigmatisation and hate crime, to stigmatise and
103 scapegoat other minority communities, such as Roma or Muslims. Equality is for all, or is not. All forms of hatred must

104 be combated based on the same Universalist policy frameworks. It is a total nonsense to believe that the fight against
105 plagues such as homophobia and transphobia, which have been present in Europe forever, could benefit from focusing
106 on one given perpetrators' community. All political discourses and political agendas aiming at separating and opposing
107 LGBTI and ethnic or religious communities must be combatted, as the poison they are to Europe's identity and as a risk
108 of escalation in a civil war-like logic. Particular visibility and recognition should also be given to those European citizens
109 and residents whose experience multiple discrimination because of the multiplicity of their sexual orientation, gender
110 identity, ethnic, religious and other identity characteristics. They often are the first victims of intolerance, while they
111 should be cherished as the embodiment of tomorrow's Europe.

112
113 On all such areas of work, **the PES is in the position to devise tools for its member parties to exchange and to grow**
114 **together**. No national party has invented the perfect solutions to all problems, but many have built innovating and
115 creative initiatives, that should feed the development of our political family's identity. Exchanges of good practices with
116 focuses on equality frameworks, cross-community cooperation, family law or trans and intersex rights, together with
117 the development of comprehensive national equality strategies, must become a dimension of all member parties' work.

118 119 **3. Party life and guidance to ensure LGBTI-inclusiveness**

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121 Political parties within the social-democratic European family must ensure their internal democratic life is made fully
122 inclusive of diversity. For this reason, they must become safe spaces for all strands of diversity, including LGBTI people
123 (but also women, disabled people, ageing people, youth, members of all faiths and non-believers, etc.). The
124 implementation of the mechanisms below should be considered by all parties, including the PES itself, in the frame of
125 a consistent plan aiming at empowering members of all communities.

126
127 National parties should openly **support LGBTI group(s) within their structures**, including their participation within
128 Rainbow Rose and their role as natural contact points for the LGBTI civil society movement outside the party. This
129 implies consultation processes, based on the principle that policies on the rights of a given community's members cannot
130 be developed without the participation of this very community. This may also imply the creation of **affirmative action**
131 **mechanisms to ensure minority participation and visibility** in decision-making bodies and in local, regional and
132 national elections.

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134 National parties should **maintain an open dialogue with LGBTI civil society** organisations. Civil society dialogue is
135 a good thing in general to ensure that policy development is based on accurate social knowledge. It is particularly
136 important to develop policies redressing legal and social discrimination against communities that have a long history of
137 being victimised and stigmatised.

138
139 National parties should **react to and condemn hate speech and speech opposing and separating different**
140 **communities**. This is an obligation in relation to homophobia, transphobia and all forms of hatred individually. Sadly,
141 it has also become an obligation to confront the instrumentalisation by some right-wing movements of some given
142 communities against others.

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144 National parties should recognise that the development of **an inclusive internal culture requires targeted initiatives**
145 to enhance party standards. Safe spaces at party conferences and events, visibility mechanisms and reporting processes
146 to address possible discrimination incidents should be regarded as necessary tools to empower women and minority
147 members – not limited to LGBTI people.

148
149 National **parties in government have a special responsibility to promote visibility and act in solidarity** with the rest
150 of Europe and in the world. Participation and input in relevant LGBTI actions must be regarded as going without saying.
151 Examples of this are the participation in Pride events and in the annual European IDAHOT (International Day Against
152 Homophobia and Transphobia) forum.

153 154 **4. International solidarity and LGBTI people's rights in the world**

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156 Based on European policy mechanisms or on national diplomacy initiatives, solidarity with all LGBTI people in the
157 world is much needed. Dozens of countries persecute or don't protect LGBTI people against persecution based on sexual
158 orientation and gender identity. The depathologisation process of trans identities is a battle to be fought at the level of
159 the World Health Organisation (WHO), and so is the question of unneeded invasive medical practices on intersex
160 children. A particularly dangerous risk has also grown over the last years, with the appropriation by some governments

161 of state-sponsored sexism, homophobia and transphobia as a diplomatic tool to develop their influence. Global
162 strategizing and alliance-building are needed to react to global hostile strategies.

163
164 The PES must be **in the front line to support and develop the EU's external policies** where relevant. This applies to
165 the Commission's work at the WHO on depathologisation. It also applies to the actual implementation of the Strategy
166 on the human rights of LGBTI people adopted in 2013 in the Council, which provides European External Action Service
167 (EEAS) and national diplomatic representations with clear guidelines to support LGBTI people and organisations in all
168 national contexts and international fora.

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170 Based on the same principles, PES **member parties must regard equal protection of human rights as an obvious**
171 **priority of their countries' foreign policy.** EU diplomacy and national diplomacy are complementary. Geography and
172 history have given different tools and areas of influence and excellence to European nations, which in turns can be a
173 key asset in global processes such as the recognition of LGBTI people's human rights by UN institutions. Working
174 consistently to achieve joint objectives is a key for success in a globalised world.
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