

Bans on conversion 'therapies'

The situation in selected EU Member States

SUMMARY

LGBTI conversion 'therapies' are practices that can be defined as 'any treatment aimed at changing a person's sexual orientation or gender identity'. Ways to implement them include psychotherapy, medication, electroshock therapy, aversive treatments and exorcism. An alternative term used to describe these practices is sexual orientation and gender identity-expression change efforts (SOGIECE). They can bring about suicidal thoughts but also permanent physical harm, suicide attempts, depression, anxiety, shame, self-hatred and loss of faith.

The World Health Organization declassified homosexuality as a pathology or disease in 1990 and transsexuality in 2019. In their 2020 report, the independent expert mandated by the United Nations Human Rights Council recommended that states ban conversion 'therapy'.

The European Parliament has strongly condemned all forms of discrimination against LGBTI people, including LGBTI conversion 'therapies'. Moreover, it has also made repeated calls on the Member States to ban such practices.

Within the European Union (EU), four Member States – Malta, Germany, France and Greece – have banned these practices, and many regions in Spain have placed administrative bans on them. Several other Member States have proposed bills in this regard. While the various laws have a comparable structure, there are variations in terms of which LGBTI+ groups are protected and what entities are covered by the bans and the sanctions imposed. Moreover, the definition of conversion 'therapy' differs slightly from one Member State to another. This briefing looks at the laws on conversion 'therapies' that are already in place or are proposed for adoption in some Member States. It then compares them, among other things, based on the definition of the practice, the scope of protection offered and the sanctions envisaged.



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Introduction

Conversion 'therapies' are practices that can be [defined](#) as 'any treatment aimed at changing a person's sexual orientation or gender identity.' Many [different approaches](#) are used to achieve the desired effect, including psychotherapy, medication, electroshock therapy, aversive treatments and exorcism. Another term used to describe these practices is sexual orientation and gender identity-expression change efforts (SOGIECE).

It is reported that the [consequences](#) of such practices can [include](#) suicidal thoughts, permanent physical harm, suicide attempts, depression, anxiety, shame, self-hatred and loss of faith. There are no data or statistics about these practices in the EU, among other things because they are often done in secrecy. It is [estimated](#) that 5% of the LGBTIQ community have been offered conversion 'therapies' and that 2% have undergone such 'therapies', but other sources suggest that these figures are much higher. A study commissioned by the Dutch government considered that the estimates of other countries cannot be directly translated into the national context due to cultural, legal and methodological differences, and that the 68 persons who had come forward about their experience for the study were likely to be only the [tip of the iceberg](#).

The World Health Organization (WHO) [declassified](#) homosexuality as a pathology or disease in 1990 and transsexuality in 2019. The [report](#) presented to the United Nations Human Rights Council in 2020 by its [independent expert](#) on protection against violence and discrimination based on sexual orientation and gender identity recommended that states should:

'(a) Ban the practices of "conversion therapy" as described in the present report, including by:

(i) Clearly establishing, through appropriate legal or administrative means, a definition of prohibited practices of "conversion therapy", and ensuring that public funds are not used, directly or indirectly, to support them;

(ii) Banning practices of "conversion therapy" from being advertised and carried out in health-care, religious, education, community, commercial or any other settings, public or private;

(iii) Establishing a system of sanctions for non-compliance with the ban on practices of "conversion therapy", commensurate with their gravity, including in particular, that claims should be promptly investigated and, if relevant, prosecuted and punished, under the parameters established under the international human rights obligations pertaining to the prohibition of torture and cruel, inhuman or degrading treatment or punishment.'

In 2006, international human rights experts adopted a set of legal standards relating to sexual orientation and gender identity known as the [Yogyakarta Principles](#). Principle 10 set out the right of freedom from torture and from cruel, inhuman or degrading treatment. The additional principles adopted in 2017 extended this principle with a specific prohibition of conversion therapies:

'Everyone has the right to be free from torture and from cruel, inhuman or degrading treatment or punishment, including for reasons relating to sexual orientation or gender identity. States shall: ... [p]rohibit any practice, and repeal any laws and policies, allowing intrusive and irreversible treatments on the basis of sexual orientation, gender identity, gender expression or sex characteristics, including forced genital-normalising surgery, involuntary sterilisation, unethical experimentation, medical display, 'reparative' or 'conversion' therapies, when enforced or administered without the free, prior and informed consent of the person concerned.'

While not legally binding, the Yogyakarta Principles clearly reflect the position of international human rights law, as demonstrated by the number of calls for official bans on conversion 'therapies', some of which refer to them directly. In its [LGBTIQ equality strategy 2020-2025](#), the European

Commission considered that conversion practices targeting LGBTIQ people may have serious bodily and mental health repercussions and that the Commission would foster Member States' exchange of good practice on ending these practices.

Ban in EU Member States

Some Member States have officially banned conversion 'therapies' on the national level, while others on the regional level. The first Member State to introduce a nation-wide ban on conversion 'therapy' was **Malta** (2016), followed by **Germany** (2020), **France** (January 2022) and **Greece** (May 2022). While **Spain** does not have national-level legislation on the topic, a [proposal](#) was made in 2021 and there are regional-level bans in non-discrimination legislation. There have been proposals for banning conversion 'therapies' in [Poland](#) and [Portugal](#). In the Polish case, the proposal put forward in 2019 did not find traction and lapsed after the elections that same year. In 2020, the Polish Ombudsman called on the prime minister to ban such practices. The Ombudsman was concerned about the prime minister's stated agreement with the position of the Polish Episcopal Conference, which considered that 'it is necessary to create counselling centres (also with the help of the Church or its structures) to help people who want to regain sexual health and natural sexual orientation.'

The **Irish** proposal, submitted in 2018, did not evolve and lapsed. Another proposal, made in 2021, [aims](#) to give 16- and 17-year-olds the possibility to over-ride consent to 'treatment', but does not prohibit forms of 'treatment' themselves. In **Belgium**, there have been successive proposals in 2019 and 2021. In the **Netherlands**, the parliament has called for a ban on [numerous](#) occasions. A [study](#) was commissioned, but the [government](#) did not consider it necessary to make a proposal and first [attempted](#) to introduce a code of conduct for religious bodies. In February 2022, in reaction to the government's reluctance to introduce legislation, four parties decided to submit a proposal for a [parliament initiative law](#). Similarly, in **Austria** a call for legislation was made in 2019, 2021 and 2022; however, the government did [not consider it necessary to legislate](#), since such practices would already be prohibited under other provisions.

An overview of the legislation and proposals in Member States is set out in the Annex to this paper.

Comparison

Comparing the structure of the laws

The laws of the different Member States are very comparable in their structure, partly because they have drawn inspiration from each other. For example, the 2019 **Belgian** proposals explicitly stated that their phrasing was based on the **Maltese** law. Furthermore, the regional laws in **Spain** have very clear similarities, in that they contain a specific prohibition of conversion 'therapy' and (in Andalucía, Aragon, the Canary Islands, Cantabria, Madrid and Valencia) categorise the intensity of the violation as 'very severe', while also having an associated penalty for 'very severe' violations. Where there is no specific fine, usually in transgender and intersex-specific legislation, the prohibition is addressed to public (health) institutions.

Comparing the definitions given to conversion therapy

The definitions of conversion 'therapy' differ slightly from one Member State to another and, in the case of Spain, from region to region. However they all contain similar wording stating that conversion 'therapy' aims to 'change, repress and, or eliminate' the sexual orientation or gender identity of the person (*'les comportements ou les propos répétés visant à modifier ou à réprimer', 'Veränderung oder Unterdrückung'*). In the **Spanish** regional laws, the definition usually refers only to 'change' (*'modificación'*), but often a later article on non-discrimination elaborates that it has to do with *'conversión, anulación o supresión'*.

While all the various laws cover the practices of medical professionals, a non-exhaustive definition is often used in order to ensure that the legislation is also applicable to 'counsellors' (people without

medical qualifications), or to religious groups offering such 'treatments'. **Malta's** law, for example, is applicable to 'any treatment, practice or sustained effort'. The non-exhaustive nature of conversion 'therapies' (which also explicitly cover the practices of religious groups considered by the [Dutch study](#) to be the entities in the Netherlands that are most frequently involved in providing such 'therapies'), is particularly apparent in the legislation of certain Spanish regions. There, conversion therapies are described as including 'all medical, psychiatric, psychological, religious or any other interventions'. While in some cases the attempt to perform a conversion 'therapy' and the act of performing it are mentioned separately, all laws and proposals consider both a violation. This is also confirmed by the fact that advertising such 'therapies' is prohibited in all cases (see more details in 'Comparison of prohibition of advertisement' below). National legislation often excludes hormonal therapies and counselling from the definition of conversion 'therapy', the aim being to assist individuals in affirming their identity and free development.

Comparing the scope of protection

National legislation usually provides that both sexual orientation and gender identity are protected. The notion of gender expression is mentioned expressly less often, though it might be covered by the notion of gender identity. Moreover, the **Spanish** regions of Navarra and Murcia have only enacted legislation for the protection of transgender and intersex persons; consequently, it does not cover sexual orientation. In Rioja, the law is generally aimed at the protection of transgender persons; however, with regard to the ban on conversion 'therapies', it applies the protection to all cases.

Table 1 - Grounds covered by legislation

Member State	Region	Grounds explicitly covered		
		Sexual orientation	Gender identity	Gender expression
Malta		x	x	x
Germany		x	x	
France		x	x	
Greece		x	x	x
Spain	Madrid	x	x	
	Valencia	x	x	x
	Andalucía	x	x	
	Aragon	x	x	x
	Cantabria	x	x	
	Navarra		x	
	Murcia		x	
	Canary Islands	x	x	x
	Rioja	x	x	x

In principle, some laws only protect minors and adults who lack legal capacity. This is the case in **Germany** and **Greece**. The situation is similar in **Malta**, where the law protects minors up to the age of 16 who have been categorised as vulnerable, as well as vulnerable adults. The latest proposal in Ireland is also specifically aimed at protecting minors, by giving them the possibility to withdraw the

consent given on their behalf. In other Member States, such as **France**, the use of conversion 'therapy' on a minor constitutes an aggravated offence.

The 2018 **Irish** proposal follows the structure of the Maltese law, but unlike Malta's law, it does not have a 'vulnerable persons' category. Had it been adopted into law, it would have had general application but would not have introduced more severe penalties for the application of conversion 'therapies' on minors.

Comparing laws as regards the possibility to give consent

The clearest distinction between the different laws is the question of whether adults can freely consent to be subject to conversion 'therapies'. **Malta, Germany** and **Greece** offer this possibility and so do the **Belgian** proposals. Nevertheless, the majority of these laws also specify that where consent is lacking or has been given under duress, no 'treatment' may be applied. On the other hand, where the ban applies to both minors and adults, such consent is irrelevant. This can, for example, be seen in the **Polish** proposal, where the prohibition states that conversion 'therapies' constitute a violation even with the consent of the person concerned (*'nawet za zgodę zainteresowanego'*). The Spanish regional laws and the national proposal also contain such phrases (*'con independencia del consentimiento prestado por las mismas o por sus representantes legales'*).

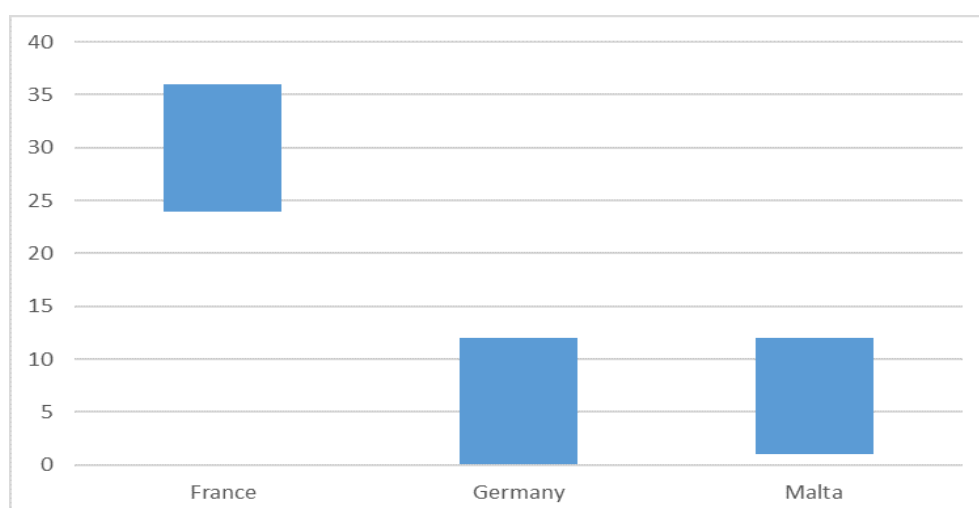
Comparing the entities involved in the provision of conversion therapies

With regard to the entities involved in the provision of conversion therapies, the laws use general terminology to cover non-qualified counsellors or religious groups. In addition, some laws and proposals state that the ban covers both remunerated and unremunerated services. In some of the **Spanish** regional laws, the ban specifically addresses public health services and/or includes an article prohibiting the registration of companies providing conversion therapies. In some countries, such as **Malta**, which allow consenting adults to undergo conversion 'therapies', professionals are prohibited from performing such practices and are subject to specific fines and other punishments (see 'Comparing sanctions' below for more detail). One issue of special note is the involvement of person(s) holding parental authority. While most of the laws do not specifically refer to them, there are some notable exceptions. In this respect, the **German** law is quite remarkable in that it mentions that the penalties do not apply to the person(s) holding parental authority unless they grossly violated their duty of care or upbringing. Conversely, in **France**, the involvement of a direct ascendant or person holding parental authority constitutes an aggravated offence. Additionally, the French law states that 'where the offence is committed by a person holding parental authority over the minor, the trial court shall rule on the total or partial withdrawal of parental authority or on the withdrawal of the exercise of that authority'.

Comparing sanctions

Since competence for criminal law usually lies solely with the national level of governance, provisions for prison sentences are built into the laws of **France, Germany** and **Malta**, and into the proposals of other EU Member States. Figure 1 gives an overview of the range of minimum and maximum prison sentences in those Member States that have introduced a ban.

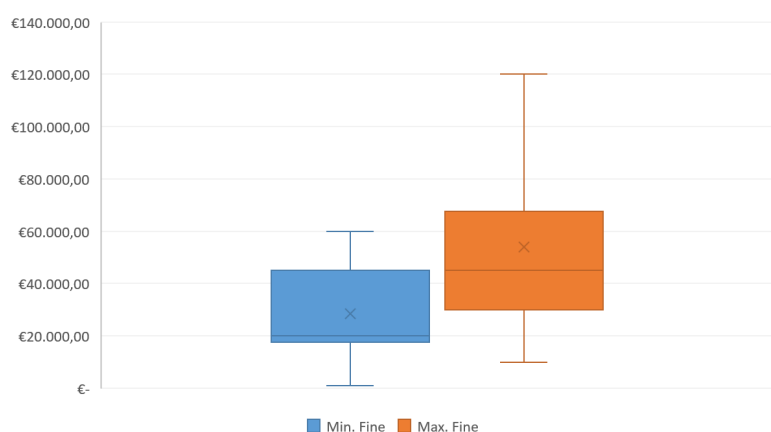
Figure 1 – Minimum and maximum prison sentences in selected Member States (months)



Source: Author's elaboration.

In **Malta and Germany**, the maximum length of a prison sentence is a year, compared to three years in **France**. While **Greece** does provide that the act is punishable with imprisonment, it does not provide for a minimum or a maximum term. Unlike other Member States, the **Belgian** proposals predicate the length of the sentence on the severity of the damage caused by the treatment. Whereas in the [2021 proposal](#), a single attempt of conversion 'therapy' could result in a sentence of eight days to six months, an act of conversion 'therapy' involving means of torture or restriction of liberty would bring a sentence of 15 to 20 years. The differences between the Member States' laws are particularly strong when it comes to fines (see Figure 2 below).

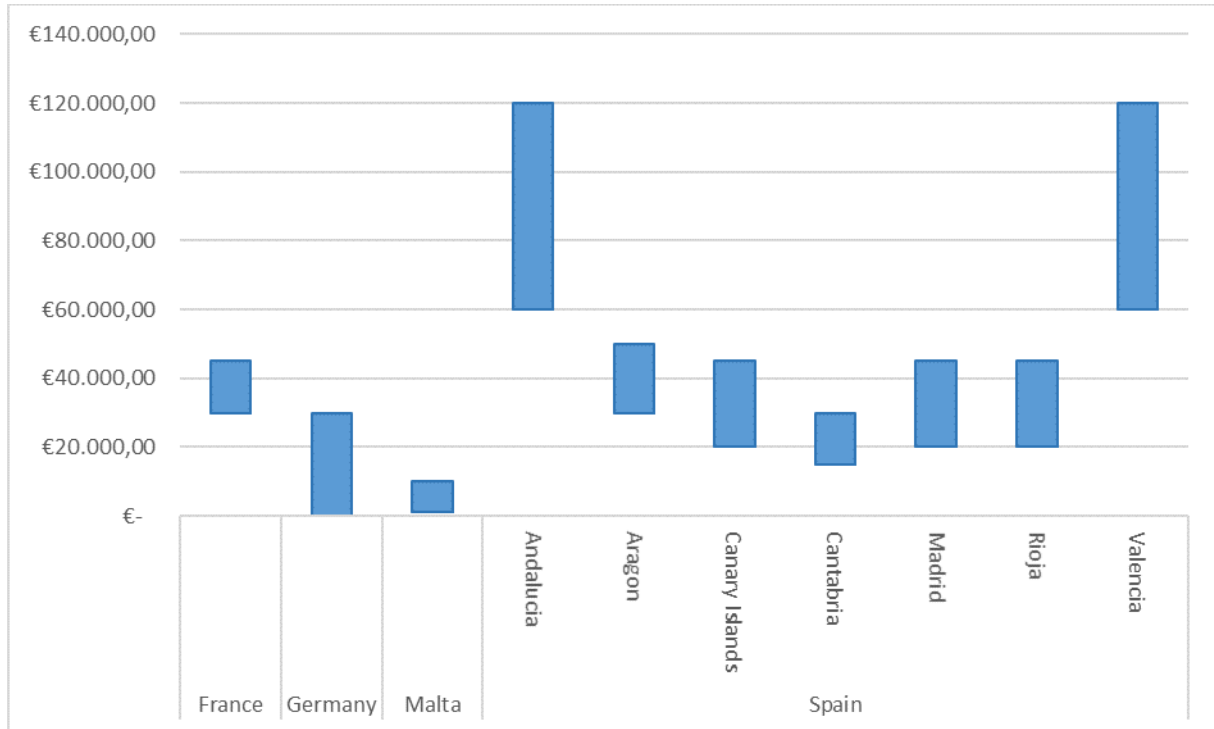
Figure 2 – Minimum and maximum fines in existing legislation



Source: Author's elaboration.

However, as shown in Figure 3, there are clear differences between the fines within **Spain**, which have been set as administrative fines, given that the regional legislators cannot introduce prison sentences. No clear explanation could be found for the large disparity between the Spanish regions. Since the introduction of the ban in Madrid, the fines seem to have steadily increased in subsequent legislation in other regions. However, the fines in the more recently adopted legislation of the regions of Cantabria, the Canary Islands and Rioja, are equal to or lower than Madrid's. Since the proposed national law in Spain is based on the regional laws, it is easy to understand why instead of a prison sentence it envisages the highest maximum fine: €150 000.

Figure 3 – Range of fines



Source: Author's elaboration.

Connection to professional bodies and professional sanctions

All of the **Spanish** regional laws that contain a sanction for conversion 'therapies' include the option of closing the institution that provided this treatment for up to three to five years. Furthermore, they envisage exclusion from access to public funds for such periods.

For professionals, such as doctors, psychologists and psychiatrists, the sanctions are usually twice the amount for non-professionals. However, sanctions also include (for example, in France), withdrawal of a licence to practice for up to 10 years. In **Poland's and Portugal's** proposals, a conviction by a court would have to be immediately forwarded to the relevant professional body. Many of these bodies had already condemned conversion 'therapies' before the introduction of the national ban. Their European umbrella-organisation, the [European Psychiatric Association \(EPA\)](#) condemned such 'treatments' in 2021. In its statement, the EPA stated that it 'encouraged legislation which bans so called conversion "therapies", because:

1. Diverse sexual orientations and gender identities do not represent a mental disorder
2. The stigmatisation on those with different sexual orientations and gender identities is a danger to society
3. There is significant risk of harm by conversion "therapies" i.e. for depression, anxiety, substance abuse, suicidal ideations and attempts, or internalised homophobia

The EPA condemns so-called conversion "therapies" because they constitute violations of human rights and are unjustifiable practices that should be banned and subject to sanctions and penalties. It is unethical for psychiatrists, psychologists or any other professionals to participate in such procedures.'

These professional bodies would therefore consider conversion 'therapies' a malpractice and would be in the position to revoke the licence. Such disciplinary proceedings have also been brought in [Portugal](#), where a ban has not yet been introduced.

Comparison of prohibition of advertisements

A [study](#) published in 2020 stated that 'it should be mentioned that different national legislations include a variety of additional rules and prohibitions in conversion therapy ban laws. One of the most important and useful is considered to be the ban [on] advertising and disinformation in [the] field of sexual orientation and gender identity conversion therapy. The value of such [a] rule and its topicality is highlighted by the rapid development of information communication technologies. In every law in the Member States where there is a clear prohibition, this includes a prohibition on advertising. Even where the prohibition itself is limited to minors, (as in the case of **Germany**), the ban on advertising is general. In some **Spanish** regional laws, the articles on promotion of LGBTI-friendly practices in health care services explicitly specify that under no circumstance does this include conversion 'therapies'. The newly introduced law in Greece is a curious case on this point. While it does provide for a ban on advertising, it only does so for professionals – meaning persons who would receive remuneration. Professionals may not 'invite, promote or advertise in any way "conversion therapies", either conducted by themselves or by third parties.' It is thus unclear whether such a ban would also apply to persons who provide such 'treatments' for free.

Cross-border effect

There are clear indications that the ban on conversion 'therapies' is leading to a relocation of institutions offering such services to neighbouring Member States, or, in the case of Spain, regions. For example, after Germany placed such a ban and given the likelihood of Austria doing the same, their conversion 'therapy' institutions have [moved to Switzerland](#) from where they will continue providing 'treatments'. Similarly, in Spain, the first person to be fined €20 001 in Madrid for performing conversion 'therapies' [moved to Toledo](#) and transferred their business online. Except for the [2018 Irish proposal](#), both the laws and most of the proposals of the individual Member States only focus on conversion 'therapies' conducted within their territory. The Irish proposal included a separate prohibition for 'any person to remove a person from the State for the purposes of conversion therapy', for which the penalty was twice as high as for performing such a practice in Ireland. It also contained a global jurisdiction clause concerning Irish citizens performing such therapies abroad, on condition that such a practice constitutes an offence where it is done.

European Parliament's position

The European Parliament has strongly [condemned](#) all forms of discrimination against LGBTI people, including the practice of LGBTI conversion 'therapies' and the pathologisation of [trans](#) and [intersex](#) people, [stressing](#) the urgent need to tackle increasing levels of hate speech and [hate crime](#) motivated by bias against a person's sexual orientation or gender identity, and [putting forward](#) concrete proposals to combat hate speech and harmful stereotypes in the media. Parliament has also [stressed](#) that disinformation about LGBTIQ+ people fuels hate, both online and offline, and threatens lives. Parliament has on a number of occasions called for a ban of such practices. In 2018, in a [resolution](#) on the situation of fundamental rights in the EU, Parliament welcomed initiatives prohibiting LGBTI conversion therapies and banning the pathologisation of trans identities, and urged all Member States to adopt similar measures that respect and uphold the right to gender identity and gender expression. In 2020, the Parliament [deplored](#) the Polish Episcopate's official position calling for conversion 'therapy' for LGBTI persons and reiterated that the Member States should ban such practices. In 2021, when declaring the European Union an [LGBTIQ Freedom Zone](#), the Parliament, while noting that the use of medication, psychotherapy and ritual cleansing in conversion therapy has been reported to have taken place in EU Member States, once again recalled its position that such practices should be criminalised.

Annex

Member State	Region (if applicable)	Name of the law (with hyperlink)	Year of entry into force
France		LOI n° 2022-92 du 31 janvier 2022 interdisant les pratiques visant à modifier l'orientation sexuelle ou l'identité de genre d'une personne	2022
Germany		Gesetz zum Schutz vor Konversionsbehandlungen	2020
Greece		Γιατρος για όλους	2022
Malta		Affirmation of Sexual Orientation, Gender Identity and Gender Expression Act, 2016	2016
Spain	Andalucía	Ley 8/2017, de 28 de diciembre, para garantizar los derechos, la igualdad de trato y no discriminación de las personas LGTBI y sus familiares en Andalucía	2018
	Aragon	Ley 18/2018, de 20 de diciembre, de igualdad y protección integral contra la discriminación por razón de orientación sexual, expresión e identidad de género en la Comunidad Autónoma de Aragón	2019
	Aragon	Ley 4/2018, de 19 de abril, de Identidad y Expresión de Género e Igualdad Social y no Discriminación de la Comunidad Autónoma de Aragón	2018
	Canary Islands	Ley 2/2021, de 7 de junio, de igualdad social y no discriminación por razón de identidad de género, expresión de género y características sexuales	2021
	Cantabria	Ley 8/2020, de 11 de noviembre, de Garantía de Derechos de las Personas Lesbianas, Gais, Trans, Transgénero, Bisexuales e Intersexuales y No Discriminación por Razón de Orientación Sexual e Identidad de Género	2020
	Madrid	Ley 3/2016, de 22 de julio, de Protección Integral contra LGTBIfobia y la Discriminación por Razón de Orientación e Identidad Sexual en la Comunidad de Madrid	2016
	Madrid	Ley 2/2016, de 29 de marzo, de Identidad y Expresión de Género e Igualdad Social y no Discriminación de la Comunidad de Madrid	2016
	Murcia	Ley 8/2016, de 27 de mayo, de igualdad social de lesbianas, gais, bisexuales, transexuales, transgénero e intersexuales, y de políticas públicas contra la discriminación por orientación sexual e identidad de género en la Comunidad Autónoma de la Región de	2016
	Navarra	Ley Foral 8/2017, de 19 de junio, para la igualdad social de las personas LGTBI+	2017
	Rioja	Ley 2/2022, de 23 de febrero, de igualdad, reconocimiento a la identidad y expresión de género y derechos de las personas trans y sus familiares en la Comunidad Autónoma de La Rioja	2022

Valencia	Ley 23/2018, de 29 de noviembre, de igualdad de las personas LGTBI	2019
Valencia	Ley 8/2017, de 7 de abril, integral del reconocimiento del derecho a la identidad y a la expresión de género en la Comunitat Valenciana	2017
Proposals		Year of proposal
Belgium	Proposition de loi interdisant les pratiques de réorientation sexuelle	2019
	Proposition de loi interdisant les pratiques de réorientation sexuelle	2021
Ireland	Prohibition of Conversion Therapies Bill 2018	2018
	Mental Health (Capacity to Consent to Treatment) Bill 2021	2021
The Netherlands	Wetsvoorstel strafbaarstelling conversiehandelingen	2022
Poland	O zakazie praktyk konwersyjnych	2019
Portugal	Projeto de Lei 838/XIV/2 Reforça a proteção da orientação sexual, da identidade e expressão de género e das características sexuais (44.ª alteração ao Código Penal)	2021
Spain	Anteproyecto de ley para la igualdad real y efectiva de las personas trans y para la garantía de los derechos de las personas LGTBI	2021

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