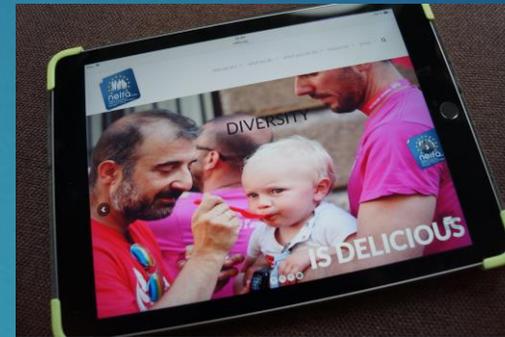


NELFA

THE NETWORK OF EUROPEAN LGBTIQ* FAMILIES ASSOCIATIONS

MEETING WITH THE EU COMMISSION ON 15 MARCH 2019





PART ONE

WHAT IS NELFA?



NELFA...

NETWORK OF EUROPEAN LGBTIQ*
FAMILIES ASSOCIATIONS (BRUSSELS)

FOUNDED IN 2009, REGISTERED AS NON-
PROFIT ORGANISATION IN 2012

CURRENTLY 34 ORGANISATIONS
REPRESENTING 28 EUROPEAN
COUNTRIES (~ 20.000 MEMBERS)

MAIN GOALS: VISIBILITY, EXCHANGE
(BEST PRACTICES, NEWS), ADVOCACY
WORK ON THE EUROPEAN LEVEL FOR
MORE RECOGNITION, PROTECTION,
EQUAL TREATMENT AND ACCEPTANCE



NELFA....

Currently run on voluntary basis by 11 Board members from all over Europe, elected by the AGM for two years (most recently in Helsinki)

PRESIDENT: Eleni Maravelia (Spain)

VICE PRESIDENT: Björn Sieverding (Germany)

TREASURER: Giovanni Fantoni (Italy)

SECRETARY: Daniel Martinovic (Croatia)

Further **Board members:** Juan Bastón (Spain), Dominique Boren (France), Marcos Jornet (Spain), Giuseppina La Delfa (Italy), Veneta Limberova (Bulgaria), Jesús Santos Homobono (Spain), and Joanna Śmiecińska (Poland).



NELFA...

ITSELF IS MEMBER OF

ILGA EUROPE (the European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association)

TRANSGENDER EUROPE (a network of different organisations of transgender, transsexual, gender variant and other like-minded people)

COFACE FAMILIES EUROPE (a pluralistic network of civil society associations representing the interests of all families, social protection & inclusion)



VISIBILITY means... COMMUNICATION!

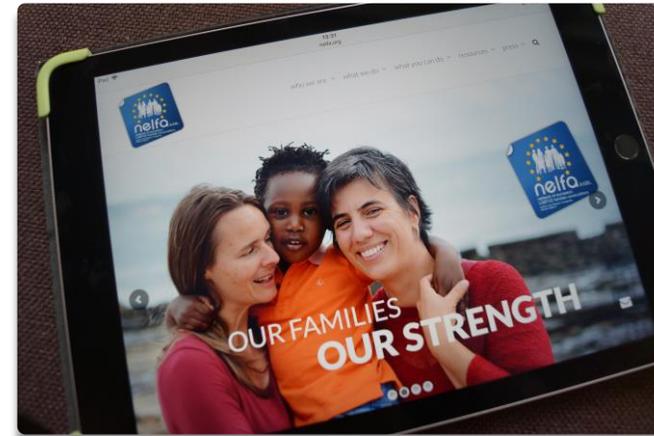
Exchange of LGBTIQ* news for/about rainbow families: current discussions, laws, research findings, litigation etc.

Internal Email network

NELFA website www.nelfa.org

Social media (Facebook, Twitter)

Newsletter (quarterly)



VISIBILITY means... CELEBRATION!

NELFA and its members organise since 2012 events for the **International Family Equality Day** (IFED). This year's motto will be „Families: United we stand!“

Since 2018, NELFA celebrates also the **International Day of Families** (UN)

NELFA organises since 2010 **European Rainbow Families Meetings**

INTERNATIONAL
FAMILY EQUALITY
DAY 2019

Families:
United
We Stand



ADVOCACY WORK...

NELFA Board members and volunteers provide **workshops, seminars, key speeches on different occasions** to raise awareness of rainbow families, they contribute with their expertise to reports, resolutions, guidelines.

Parliamentary hearings, committee meetings, international conferences (i.e. **ILGA**, Families&Societies, Men Having Babies)

Partners i.e. **Council of Europe** (NELFA with participatory status in the conference of INGOs), the European Parliament's **Intergroup on LGBTI Rights**, Eurochild



ADVOCACY WORK...

NELFA members try to organise every year specific **rainbow families conferences** – for example in Naples 2017 (organised by Famiglie Arcobaleno) and in Lisbon 2018 (organised by ILGA Portugal). The next event will be in Zagreb from 10-12 May 2019 (organised by Dugine obitelji, Croatia).



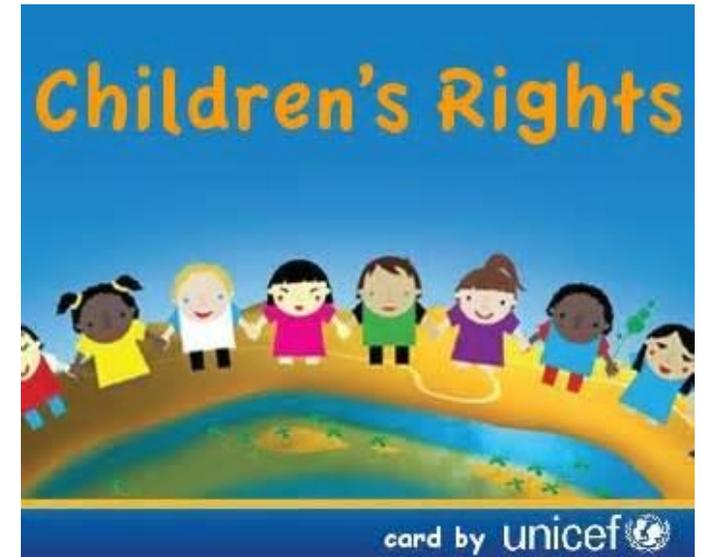
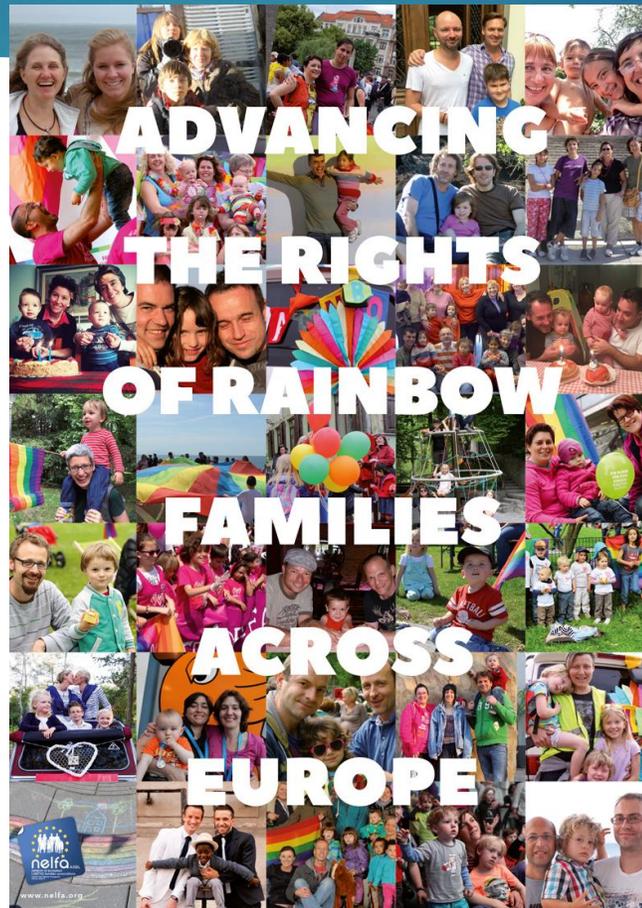
CAPACITY BUILDING...

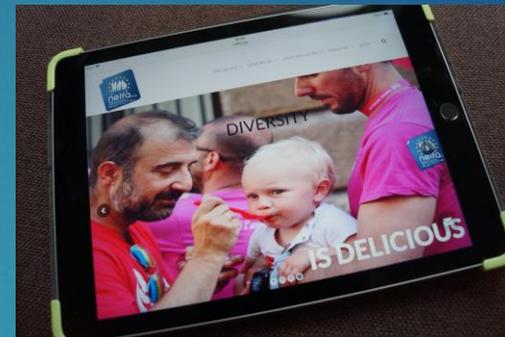
Since 2016, NELFA organises i.e. Erasmus+ projects, financed by the European Union. The main aim is to strengthen NELFA towards its educational activities. Our participants attend **training courses** (i.e. consulting, teaching and guidance skills, conflict management) and **job-shadowing** programmes (at major LGBTIQ* organisations). In June 2019, we will finalise our third project “**Joining forces for the well-being of rainbow families**” (2018/2019).

Partner organisation is the consultancy corporation „**In Dialogue**“ in Gouda.



NELFA's major aims...





PART TWO

CURRENT STATUS OF RAINBOW FAMILIES IN EUROPE?



RAINBOW EUROPE

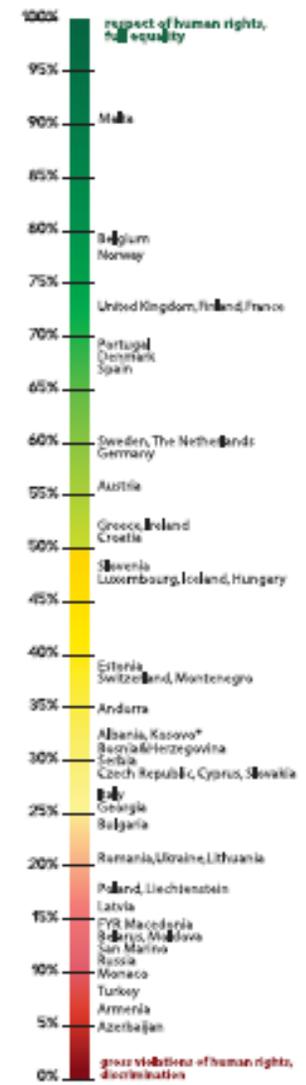
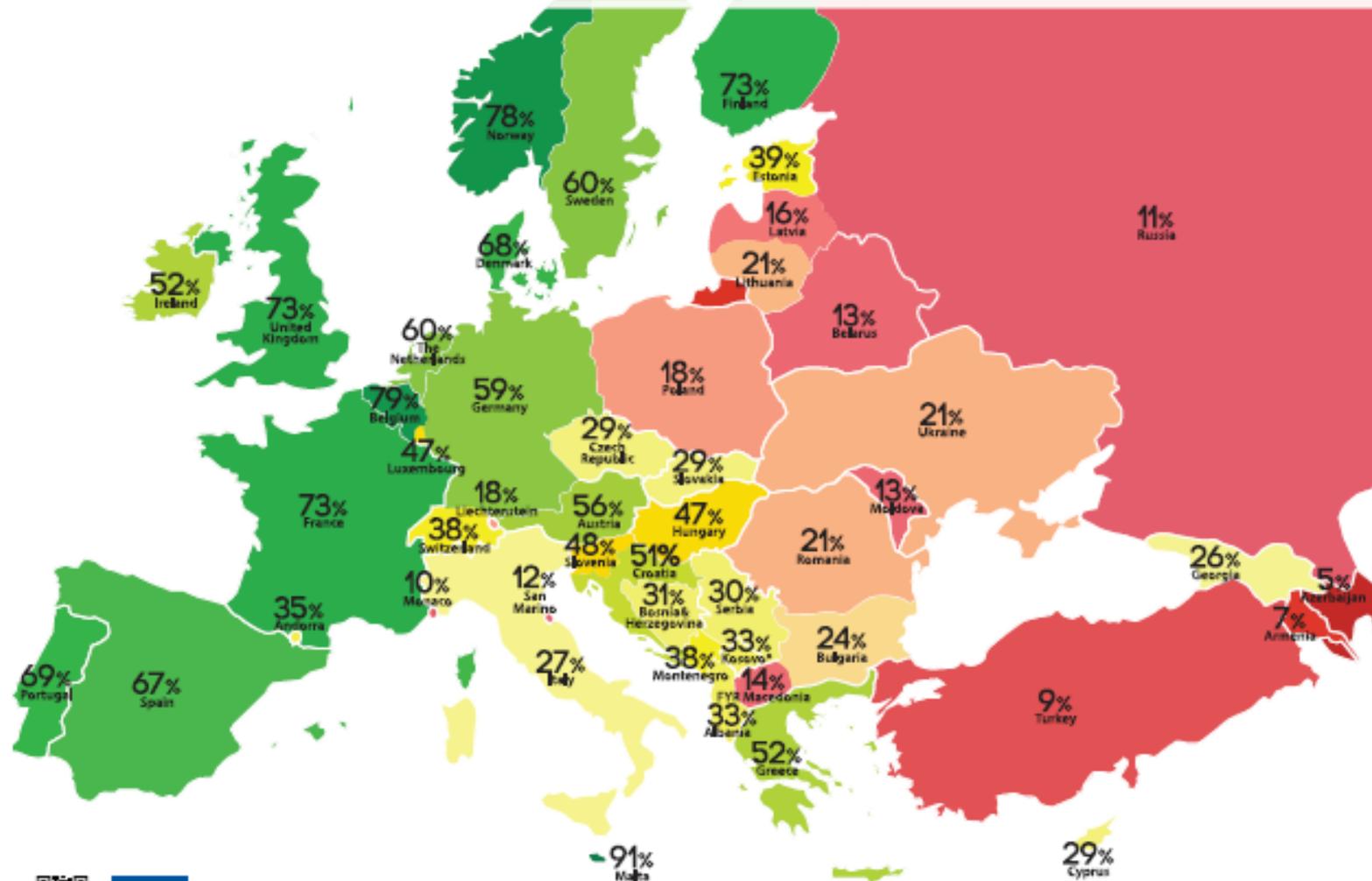
MAY 2018

Reflecting the legal and policy human rights situation of lesbian, gay, bisexual, trans and intersex (LGBTI) people in Europe

How did we calculate these scores? Have a look at www.rainbow-europe.org

47% Iceland

0% 10% 20% 30% 40% 50% 60% 70% 80% 90% 100%



Confunded by the Rights Equality and Gender Unit, 2014-2018 of the European Union.

LGBTIQ* “family rights”

Registered Partnership: 23 European countries
most recently: SAN MARINO (Nov. 2018)

Marriage Equality: 16 European countries (14 EU)
THE NETHERLANDS, BELGIUM, SPAIN, NORWAY, SWEDEN, PORTUGAL, ICELAND, DENMARK, FRANCE, UK*, LUXEMBOURG, IRELAND, FINLAND, GERMANY, MALTA, (most recently) AUSTRIA

Joint Adoption: 17 European countries (14 EU)
COUNTRIES above + ANDORRA

Second-Parent Adoption: 18 countries
(i.e. SWITZERLAND and SLOVENIA)

Automatic Co-Parent Recognition: 10 countries
most recently: FINLAND (soon IRELAND?)

Medically Assisted Insemination: 14/27 countries

		Marriage equality	Family
●		Registered partnership (similar rights to marriage)	
●		Registered partnership (limited rights)	
		Cohabitation	
●	●	No constitutional limitation on marriage	
●		Joint adoption	
●		Second-parent adoption	
		Automatic co-parent recognition	
		Medically assisted insemination (couples)	
		Medically assisted insemination (singles)	
		Trans people can marry a person of another gender	

Freedom of movement?

European Union citizens **and their family members** have the right to move freely and live in another EU country, subject to any conditions set out in the EU's treaties.

DIRECTIVE 2004/38/EC

Source: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:l33152>

Family members?

This covers the **spouse**, a **partner** in a registered partnership with an EU citizen and **direct descendants** under the age of 21 ... but the Directive doesn't specify if this includes rainbow families. In June 2018: a clarification through the **Coman case**.



The Coman Case and its implications...

Analysis by Alina Tryfonidou (University of Reading/UK) for NELFA in 2019:

- Term „spouse“ includes same-sex couples
- Same-sex marriages are equal to different-sex marriages for the purposes of EU law
- A Member State cannot rely on national law
- Term „spouse“ must comply with the right to „family life“, „family reunification“

Limitations:

- Independent of the place where the marriage has been contracted?
- Genuine residence for more than three months
- Marriage status in host countries during visits?
- Third-country national residing lawfully in the EU?



Like Coman?

29 June 2018: The Sofia City Administrative Court ruled in favour of a same-sex couple who fought for their right to reside as a married couple in Bulgaria. Cristina and Mariama, an Australian-French couple, got married on 1 June 2016 in France. Later that year, Cristina, an Australian citizen, was granted residency in Sofia, based on the 2004/38/EC Directive on freedom of movement in the EU. However, in 2017, the Ministry of Interior's Migration Directorate denied her the right to reside based on the argument that same-sex marriage is not allowed under the Bulgarian Constitution. Currently, the positive decision of the Court in Sofia is blocked. The Migration Department complaint against the ruling. The next lawsuit at the Supreme Court in Sofia is to be expected in May 2019...



Free movement obstacles/traps for rainbow families

Crossing a boarder can mean: i.e. losing your civil status, your parental rights. For the child: losing your legal tie to one parent, protection/benefits

- **A SIGNIFICANT LACK OF FUNDAMENTAL LGBTIQ* RIGHTS IN A RANGE OF HOST MEMBER STATES**
- **COMPLICATED, DIFFERENT REGULATIONS THAT DO NOT REALLY MATCH, SOMETIMES THEY ARE EVEN INCOMPATIBLE**
- **POORLY INFORMED STAFF, SOMETIMES WITH A HOSTILE ATTITUDE (DUE TO A LGBTIQ* PHOBIC ENVIRONMENT)**

See NELFA's case collection: <http://nelfa.org/inprogress/wp-content/uploads/2019/01/NELFA-fomcasesdoc-2019-1.pdf>



Francesca and Alexandra

Eleni: Greek, Kate: British

Residence: Spain (Barcelona)

2012: Birth of Francesca via MAR in Spain by Eleni

2016: Birth of Alexandra via MAR in Spain by Eleni

Spain: birth certificates recognise both mothers (even without civil union or marriage). To obtain Spanish citizenship, a child with foreign parents needs to be registered abroad.

UK and Greece didn't accept the transcription of Francesca's birth certificate (UK: fertility treatment in Spain, Greece: same-sex couples not recognised). Francesca didn't receive a passport. After three months, Francesca was diagnosed with cancer.

The responsible person for the transcription turned a blind eye and made a partial registration of the birth.



Christopher (name chaged)

Leandro: British, Francois: French Residence: UK

2008: Parents in a civil partnership

2010: Birth of Christopher, 2012: Adoption

2016: Parents converted their union into a marriage

Chris' parents considered moving to France, but Embassy officials told them that they need to get (fraudulently) divorced. In 2014, same-sex couples (England + Wales) were offered to 'convert' their civil unions to a marriage. Their certificates were backdated without a ceremony. In France, marriages must have a wedding ceremony with witnesses and the certificate must reflect the date of the wedding – so the marriage is „fundamentally incompatible“ with French law. Many other families have similar problems.

A divorce isn't an option (UK: reasonable grounds and a separation year). As long as the marriage isn't approved in France, Christopher's adoption documents can't be transcribed. UPDATE: France accepts the conversion, but the French civil servants didn't read the decision well and ask for documents the couple does not have... In the meantime, NELFA received information that the same problem exists between Finland and France.



Victor (name changed)

Janet: Danish, **Delina (name changed):** Bulgarian

Residence: formerly Denmark, now Bulgaria

2016: Birth of Victor by Delina (the birth certificate recognised both mothers)

2016: Victor's mothers got divorced

The Bulgarian mother tried to get a Bulgarian birth certificate, but the Municipality of Pazardzhik refused to do it (law). After a complaint, the Administrative court ruled, that a birth certificate will be issued, blank case „father“. The Danish mother should submit a new court case for proving an origin of the „father“. Victor lost his Danish mother, because the Bulgarian mother never allowed the other one to see the child anymore...

In 2018, Victor's Danish mother lost a two instance court procedure because her „parenthood rights“ would contradict the main principles of Bulgarian law and public order. The boy can't visit his mother.

The ECHR refused to look into the case (formal reasons). Janet has now a lawyer. Currently no further news.



Rainbow families and EU law – children's rights

Analysis by Alina Tryfonidou (University of Reading/UK) in 2019 (not published yet):

KEY RESULT: „It is not permissible for Member States to refuse to recognise the familial links (as there are established elsewhere). This amounts to a breach of EU free movement of persons provisions, as well as to a breach of a number of fundamental human rights which are protected under EU law“

COMMISSION: Lack of clarity, „EU has buried its head in the sand, the institutions have chosen to ignore social reality => rainbow families in uncertainty

NEEDED: „A clear stance on the matter and to inform the Member States that EU law requires them to recognise, for all legal purposes, the familial ties among the members of a rainbow family coming from another Member State, as these have been established elsewhere“



LIBE Committee consideration

Concerning the Petition 0513/2016 (Eleni Maravelia)

Claude Moraes (EP's Committee on Civil Liberties, Justice and Home Affairs) on 08 March 2019: „The absence of mutual recognition of parental status for same-sex partners within the EU may pose restrictions to the exercise of their right to free movement by LGBTI individuals and their children, in contravention with the provisions of the Charter of Fundamental rights.“

Article 7: respect for private and family life

Article 21(1): non-discrimination (sexual orientation)

Article 24(2): protection of the best interest of the child

NEW List of Actions from 2019-2024!!!



What's next?

White Paper: Rights on the Move (Salomon 2015)

- Efforts of the EU Commission in relation to the preparation of legislation on mutual recognition of public documents related to civil status
- Endeavours to strengthen children's rights, especially in rainbow families
- children's opinions taken into account
- A study on the well-being of children living in families who are stigmatised or not



“ [...] rainbow families exist throughout Europe, whether or not legislation provides for them. These families have the same needs as any other family, yet many are deprived of their rights on the grounds of the sexual orientation or gender identity of the partners or parents. It is crucial and urgent that our legal systems acknowledge this reality and that States work to overcome the discrimination experienced by both adults and children [...] ”

JONAS GUNNARSSON (PACE-RAPPORTEUR, COMMITTEE ON EQUALITY AND NON-DISCRIMINATION)

Council of Europe, Resolution 2239 (2018). Private and family life: achieving equality regardless of sexual orientation.

Resolution : <https://bit.ly/2FpaqqR>. Report: <https://bit.ly/2NuRdmD>.



What's next?

NELFA asks for the best ways to continue the relationship to the EU Commission and the most effective cooperation within the next years. What does the Commission need from NELFA to take action? What are possible things to do and where are restrictions?

NELFA asks for funding possibilities (i.e. to start a children's rights campaign for rainbow families within the EU [including film and other testimonies] or to build up a specific Rainbow Family Map to clarify the legal gaps which still exist in the European framework)

NELFA asks for public statements concerning an equal treatment of rainbow families, i.e. a video message for the Rainbow Families Conference in Zagreb (10-12 May 2019) or for the International Day of Families (15 May) and a possible participation at our research presentation in Brussels on 10 June 2019.





Thank you for your attention!

NELFA

... IS THE EUROPEAN PLATFORM OF LGBTIQ* FAMILIES ASSOCIATIONS, BRINGING TOGETHER LGBTIQ* PARENTS AND PARENTS-TO-BE FROM ALL OVER EUROPE. NELFA CURRENTLY REPRESENTS 34 ORGANISATIONS IN 28 EUROPEAN COUNTRIES WITH MORE THAN 20,000 MEMBERS. NELFA IS A MEMBER OF ILGA-EUROPE, TRANSGENDER EUROPE AND COFACE FAMILIES EUROPE. WEBSITE: [HTTP://WWW.NELFA.ORG](http://www.nelfa.org). LEAFLET: [HTTP://BIT.LY/2RjW0Us](http://bit.ly/2RjW0Us). NEWSLETTER: [HTTP://BIT.LY/2FCN5C5](http://bit.ly/2FCN5C5).

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