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CHAPTER 9

International judicial discourse and non-derogatory language use: A case study on ECtHR judgments

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Abstract

The European Convention on Human Rights (ECHR) protects human rights and fundamental freedoms and promotes democracy among the 46 members of the Council of Europe. It therefore protects people against any form of discrimination, including discrimination based on gender identity or sexual orientation. Over time, the European Court of Human Rights (ECtHR) has been called to apply the rights enshrined in the ECHR to cases involving LGBTQ+ people several times. While ECtHR case law dealing with gender-related issues and LGBTQI+ persons' rights have been extensively investigated from a legal standpoint, the same cannot be said about the linguistic dimension of these decisions, which has received very limited attention. This chapter intends to narrow the gap by exploring ECtHR judicial discourse and, in particular, a corpus of ECtHR judgments in English compiled in Sketch Engine which comprises two subcorpora: the first including majority opinions and the second containing the relevant separate – concurring or dissenting – opinions. The study has two aims. The first is to extract gender identity labels in order to verify whether they appear in textual material either directly produced by the judges or quoted from external sources. The second is to focus on two apparently neutral nouns, namely *lifestyle* and *rights*, which – when accompanied by gender identity labels – may be perceived as offensive or derogatory. The main purpose is to assess whether the use of gender identity labels in the two subcorpora is compliant with the definitions and guidelines for respectful use of language.

Keywords: gender identity labels; European Court of Human Rights; separate opinions; offensive and derogatory language; discrimination through language

1 Introduction

Historically, LGBTIQ+ people have been discriminated against and have been subject to prejudice, social exclusion, public humiliation, harassment and violence. Discrimination on the grounds of sex, gender identity and sexual orientation exists in all spheres of society, such as education (see, e.g., Birkett, Russell, and Corliss 2014), employment (see, e.g., Sears and Mallory 2014), health (see, e.g., Clark 2014; Medina-Martínez et al. 2021), housing (see, e.g., Romero, Goldberg, and Vasquez 2020), and can manifest itself in different forms. Over the years, a growing body of domestic, supranational and international legislation has been passed for the protection against discrimination on the basis of

sex, gender identity and sexual orientation.¹ This has been accompanied by several policy initiatives² as well as by extensive case law by European courts, as is confirmed not only by the literature (Edel 2019; Hamilton 2020; Helfer and Voeten 2014) but also by the factsheets produced by the European Court of Human Rights (ECtHR).³

One of the possible forms in which discrimination can manifest itself is through the use of language that may be perceived as offensive or derogatory, which is here intended to mean “any disparaging statement referring to a social category as a whole or to its members” and “may consist of entire sentences or specific labels, often referring to physical traits (‘nigger,’ ‘darkie,’ ‘cunt’), to cultural habits (‘holy roller,’ ‘kraut’), or to the animal world (‘cockroach,’ ‘bitch’)” (Cervone, Augoustinos, and Maass 2021: 81). *Derogatory language* also includes hate speech, “which involves the expression of hate and/or the encouragement of violence against others based on their real or assumed membership in a given category” (Cervone, Augoustinos, and Maass 2021: 81). Given the key role of the European Court of Human Rights in protecting fundamental rights and freedoms, including the protection from any form of discrimination, one would not expect judges to use offensive or derogatory language in their decisions. However, as rightly pointed out by Bletsas (2015: 80), judicial decisions have an “inherent argumentative nature”, and “since argumentation always stems from a quaestio at least in principle capable of arising a difference of opinion, a text laying out (at least) a quaestio, a decisional standpoint and its motivations, is highly likely to host various voices”. This means that judgments by nature accommodate a plurality of complementary, contrasting or even antagonistic voices, especially when particularly sensitive or controversial matters are dealt with. The possible difference in judges’ standpoints combined with the diversity of voices that must be accounted for in the argumentation of a case may lead to the presence of discriminatory language and gender stereotyping in judicial proceedings as well as in judicial decisions, as has been acknowledged (Jelić and Smith 2022: 52), so as so that the need for guidance on the use of inclusive language in court and legal documents has resulted in a proper practical guide (Ziliotto and Holden 2023).

From a scholarly perspective, to the best of our knowledge the possible presence of derogatory or discriminatory language in case law has attracted scant attention, even more so in relation to LGBTIQ+⁴ people, where the literature is extremely scarce (Goldyn 1981). The aim of this paper is to investigate whether judgments delivered by the ECtHR contain derogatory or discriminatory language, and, to do so, an ad hoc corpus of judgments featuring gender identity labels referring to LGBTIQ+ people was created. The reason underlying this choice is that topics such as gender identity and sexual orientation have undergone a relatively rapid evolution in recent decades, but their sensitive nature may have left traces of offensive language even in judicial discourse. In Section 2, a review of the legal instruments guaranteeing protection against sex and gender discrimination adopted by the Council of Europe is provided. This is followed by an illustration of the materials published by the Council of Europe to promote the use of non-derogatory and non-discriminatory language. Section 3 presents the methodology, which required the compilation of a corpus of ECtHR judgments, the extraction of gender identity labels and their analysis with their concordance lines against the guidelines on the respectful use of gender identity labels made available by three different entities. The results of the analysis are presented in Section 4, which first considers the slot in which these labels appear (either adjective or noun) and then concentrates on two apparently neutral nouns, i.e. lifestyle and rights, which, when combined with gender identity labels, may show bias or prejudice or perpetrate stereotyped views of non-binary gender identities or expressions. The paper ends with

¹ For an in-depth investigation of the international and European sphere, see Danisi (2015).

² See, for example, European Commission’s *LGBTIQ Equality Strategy 2020-2025* (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0698>) and Council of Europe’s *Gender Equality Strategy for 2024-2029* (<https://search.coe.int/cm?i=0900001680ae569b>), both accessed 25 May 2024.

³ See, for instance, European Court of Human Rights Press Unit (2023, 2022); Council of Europe, Steering Committee on Anti-Discrimination (2023); ECtHR Department for the Execution of Judgment (2021).

⁴ Several initialisms exist that refer to people with sexual orientations, gender identities and expressions and sex characteristics that do not fall within binary definitions of male and female. Among them, LGBTIQ+ is the one chosen to be used throughout this chapter.

a concluding section which emphasises the polyphonic nature of ECtHR judgments. While this polyphony is necessary for all the voices contributing to the construction of argumentation to be accounted for, it may still give leeway – although in a limited number of instances – to the use of derogatory or discriminatory language.

2 Sex, gender and discrimination through language in the Council of Europe

2.1 Legal instruments

ECtHR case law on discrimination is primarily based on the European Convention on Human Rights (ECHR), its Protocols and other Council of Europe (CoE) legal instruments but is also intertwined with European Union legislation and other international legal instruments. The chief ECHR provision concerning non-discrimination is Article 14 (further reinforced in Protocol 12, Article 1), which states:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

As stated by *Jelić and Smith (2022: 23)*, “[t]he list of prohibited grounds of discrimination in Article 14 is not exhaustive: while it does not explicitly include other relevant grounds such as sexual orientation, disability and age, these have been deemed by the Court to fall under the Article’s ‘other status’ wording”.

Apart from the Convention and its Protocols, the CoE has adopted a number of legal instruments specifically addressing discrimination based on sexual orientation and gender identity. The first is Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity. It “sets out the principles deriving from existing European and international instruments and identifies specific measures to be adopted and effectively enforced by member states in order to combat SOGI-based⁵ discrimination in twelve thematic fields” (SOGIESC Unit 2024). In order to promote and ensure respect for the human rights of every individual, including *LGBTIQ+* persons, on the mandate given by Recommendation CM/Rec(2010)5, the Council of Europe Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (SOGIESC) Unit was set up in 2014, which provides technical support and expertise to member states, upon request, through cooperation activities. Moreover, in 2024 the Committee of Experts on Sexual Orientation, Gender Identity and Expression, and Sex Characteristics (ADI-SOGIESC) commenced operating as a subordinate body of the Steering Committee on Anti-discrimination, Diversity and Inclusion, which is in charge of overseeing the CoE’s efforts to advance equality and foster inclusive societies. ADI-SOGIESC is responsible for supporting member states in the development and implementation of effective policies related to SOGIESC.

Recommendation CM/Rec(2010)5 advocates the “respect for the human rights of lesbian, gay, bisexual and transgender persons and to promote tolerance towards them” (Council of Europe 2010: Recommendation 2). As emerges from this quote and from other passages of the recommendation, the focus is on lesbian, gay, bisexual and transgender persons, which means that intersex and queer/questioning people are not specifically mentioned therein. This should not come as a surprise, since the two terms have taken hold in more recent times, and the recommendation should be read as including intersex and queer/questioning people as well. The recommendation identifies specific measures to be adopted and effectively enforced by member states in order to combat what is

⁵ SOGI stands for ‘sexual orientation and gender identity’.

nowadays known as SOGI-based discrimination in twelve thematic fields: right to life, security and protection from violence; freedom of association; freedom of expression and peaceful assembly; right to respect for private and family life; employment; education; health; housing; sports; right to seek asylum; national human rights structures and discrimination on multiple grounds. As regards SOGI-based discrimination perpetrated through language, a reference can be found under the first theme, where the recommendation addresses hate speech, which is described as “all forms of expression, including in the media and on the Internet, which may be reasonably understood as likely to produce the effect of inciting, spreading or promoting hatred or other forms of discrimination against lesbian, gay, bisexual and transgender persons” (Council of Europe 2010: Recommendation 2).⁶

As regards discrimination through language, the Committee of Ministers first recognised “the fundamental role of language in forming an individual’s social identity, and the interaction which exists between language and social attitudes” in *Recommendation No R (90) 4 on the elimination of sexism from language*, in which it acknowledged that “the sexism characterising current linguistic usage in most Council of Europe member states – whereby the masculine prevails over the feminine – is hindering the establishment of equality between women and men, since it obscures the existence of women as half of humanity, while denying the equality of women and men” (Council of Europe 1990). Although the recommendation focuses on the promotion of a use of language that reflects the principle of equality of women and men, without specifically referring to LGBTIQ+ people, it represents a first step towards encouraging the use of non-sexist language in legal drafting, public administration and education, as well as in the media.

Another instrument acknowledging the role of language in reaching gender equality is *Recommendation CM/Rec(2007)17 on gender equality standards and mechanisms*, which highlights that “[a]ctions of member states must be targeted at the promotion of the use of non-sexist language in all sectors, particularly in the public sector and at all levels and in all forms of education and media” (Council of Europe 2007). The elements proving the states’ political will and commitment to gender equality in this regard include the “existence of initiatives to encourage the elimination of discriminatory expressions, which describe women and men in terms of their physical appearance or the qualities and gender roles attributed to their sex”, again stressing the need to pursue gender equality of men and women.

A similar emphasis can be found in *Recommendation CM/Rec(2019)1 on preventing and combating sexism*, in which the Council of Ministers recommends that the member states take measures to prevent and combat any manifestation of sexism in the public and private spheres. In the guidelines appended to the recommendation, it recognises that “language and communication are essential components of gender equality and ‘must not consecrate the hegemony of the masculine model’” (Council of Europe 2019). It also points out that “[n]on-stereotypical communication is a good way to educate, raise awareness and prevent sexist behaviour”, specifying that it “encompasses eliminating sexist expressions, using the feminine and masculine or gender-neutral forms of titles, using the feminine and masculine or gender-neutral forms when addressing a group, diversifying the representation of women and men, and ensuring equality of both in visual and other representations” (Council of Europe 2019). Despite mentioning women and men throughout the text, the recommendation differs from *R(90)4* and *CM/Rec(2007)17* in introducing a distinction between sex and gender in its Preamble (“discrimination on the grounds of sex and/or gender constitutes a violation of human rights and an impediment to the enjoyment of human rights and fundamental freedoms”) and introducing the concepts of “gender identity” and “sexual orientation” under the *Intersectionality, situational vulnerabilities and aggravating circumstances* heading in the guidelines, where a sentence is devoted to the additional and/or enhanced challenges with regard to sexism people may face because of being intersex and trans.

A clear acknowledgement of transgender people can be found almost a decade later in *Resolution 2048 (2015) Discrimination against transgender people in Europe*, which also mentions other gender

⁶ In relation to hate speech, it is worth mentioning that the CoE published a manual for combating hate speech online through human rights education (Keen and Georgescu 2020).

identity labels when recommending that member states “ensure that legislative and other measures are adopted and effectively implemented to combat discrimination on grounds of sexual orientation or gender identity, to ensure respect for the human rights of lesbian, gay, bisexual and transgender persons and to promote tolerance towards them” (Council of Europe 2015) and contains a section devoted to hate speech.

2.2 Guidance on the use of non-derogatory and non-discriminatory language

As seen so far, the legal instruments adopted by the CoE over the years reflect the evolving awareness of gender issues: the CoE first addressed equality between women and men and then expanded protection against discrimination to an increasing number of categories nowadays falling under the umbrella term of LGBTIQ+ people. This evolution can be noticed also in the available material giving guidance on how to use non-derogatory and non-discriminatory language.

The first text adopted by the CoE is *Instruction No. 33 of 1 June 1994 concerning the use of non-sexist language at the Council of Europe* (Council of Europe 1994), which applies to all CoE texts, publications and audiovisual material but mainly revolves around equality between women and men. A very similar focus on equality between women and men can be found in much more recent publications, such as CoE’s *Gender Equality Glossary* (Council of Europe 2022), which collects definitions from CoE’s standards or reference documents. A step forward towards a full recognition of a non-binary gender system can be observed in the 2024 *Guidelines for the use of language as a driver of inclusivity*, which contain the following preliminary remark: “[u]sing gender-inclusive language means speaking and writing in a way that does not exclude or discriminate against a particular sex, gender or gender identity, and does not perpetuate sexism or gender stereotypes. This includes better acknowledging those who identify outside of the gender binary” (Council of Europe 2024).

Another interesting online space developed by the CoE is the *Human Rights Channel* website, with its *Sexism: See it. Name it. Stop it.* webpage,⁷ which is rich in informative texts and multimedia, interactive content. It also contains a section entitled *Language and communication* which, although providing examples focusing on male-female binary, states that “gender-blind or discriminatory language reinforces sexist attitudes and behaviour” and recommends “[r]eview[ing] public communication to make sure it uses gender-sensitive language and imagery”, “[p]roduc[ing] manuals on gender-sensitive communication for different audiences” and “[p]romot[ing] research in this area”.

The CoE website clearly addressing gender issues from a non-binary perspective is SOGIESC Unit’s website.⁸ The activities in which the unit is involved are manifold, and the potentially detrimental role played by language in perpetrating violence against LGBTIQ+ people emerges in the *Right to life, security and protection from violence* page, a section of which is devoted to hate speech, where a link to the volume entitled *Policing hate crime against LGBTI persons: Training for a professional police response* (Perry and Franey 2017) is provided. Despite the abundance of materials and publications developed by SOGIESC Unit,⁹ specific guidance on how to use language in a non-derogatory, non-discriminatory way is extremely scarce, with the only references found in the volume just mentioned, encouraging police officers to use language which is open, inclusive, neutral, technical and non-judgemental.

A website richer in information on LGBTIQ+ terminology and the role of language in discrimination is *Gender Matters*,¹⁰ which is based on the eponymous manual addressing gender-based violence affecting young people. A passage in the revised version of the manual highlights the importance of language when it states that “[w]e have tried to use gender-sensitive language throughout the manual

⁷ <https://human-rights-channel.coe.int/stop-sexism-en.html> (accessed 19 July 2024).

⁸ <https://www.coe.int/en/web/sogi> (accessed 29 July 2024).

⁹ See the list here: <https://www.coe.int/en/web/sogi/publications> (accessed 29 July 2024).

¹⁰ <https://www.coe.int/en/web/gender-matters> (accessed 19 July 2024).

and avoid the trap of gender binary” (Pandea, Grzemny, and Keen 2019: 12) and suggests activities that allow participants to reflect on the impact of language in gender-based violence. The key role played by language emerges also from the relevant website, which for instance features a page devoted to explaining the meaning of terms such as *sex*, *gender*, *gender identity*, *gender expressions*, *gender roles* and *sexual orientation*.¹¹ The website also comes with a glossary, which provides users of *Gender Matters* a short definition or explanation of some recurrent terms used in the manual, which are related to gender and gender-based violence.¹²

As emerges from the above, protection against discrimination through language is not regulated by a single legal instrument nor is guidance on *the use of non-derogatory and non-discriminatory language* provided by means of a single reference text, but is rather scattered across various materials, none of which is expressly meant for judicial drafting. For this reason, as is illustrated in the Methodology section below, the materials used as benchmark to verify whether ECtHR judges use gender identity labels in a respectful way were drawn not only from the *Gender Matters* website, but also from online sources external to both the CoE and the ECtHR.

3 Methodology

This study is a partial follow up of a previous study focussing on the terms *trans*, *transgender* and *transsexual* (Peruzzo 2024) and aims at verifying whether ECtHR judges use gender identity labels referring to LGBTQ+ people in their judgments in a respectful way. The study was conducted on a corpus of judgments extracted from the HUDOC database¹³ by using the words forming the initialism *LGBTIQ+* as keywords. However, given that a detailed account of how the ECtHR uses the labels *trans*, *transgender* and *transsexual* is given in the previous study (Peruzzo 2024), although carried out on a much smaller corpus, the actual search words used in this study were *lesbian*, *gay*, *bisexual*, *intersex*, *queer* and its alternative *questioning*. The number of texts was narrowed down by selecting only judgments (rather than decisions)¹⁴ issued by the Grand Chamber or Chambers – thus excluding Committees –,¹⁵ and setting English as the language in which these texts are available.¹⁶

By applying these selection criteria, a corpus of 132 judgments was compiled using Sketch Engine, which was subdivided into two subcorpora. As already highlighted elsewhere (Peruzzo 2019, 2024), the ECtHR does not require unanimity for a verdict to be reached and, contrary to other courts, ECtHR judges who participate in the consideration of a case may annex a separate opinion or a statement of dissent to the relevant judgment. The body of the judgment reflects the majority opinion and is drafted by a judge rapporteur with the assistance of the Registry, following a “prefabricated structure, divided into sections and subsections” (Peruzzo 2019: 60) and using recurrent, standardised formulas (Peruzzo 2019: 60–68). Separate opinions, on the other hand, represent minority opinions usually by one judge or a small group of judges. Out of the 132 judgments selected, 72 contained separate opinions, and in order to process the data correctly, the corpus was divided into two subcorpora, the first containing majority opinions (MOs) and the second one separate opinions (SOs). The details obtained from Sketch Engine are reported in Table 1.

Table 1. Details of the subcorpora

	Majority opinions (MOs)	Separate opinions (SOs)
Documents	132	72
Tokens	2,050,504	278,180

¹¹ <https://www.coe.int/en/web/gender-matters/sex-and-gender> (accessed 19 July 2024).

¹² <https://www.coe.int/en/web/gender-matters/glossary> (accessed July 2024).

¹³ <https://hudoc.echr.coe.int/> (accessed 9 March 2024).

¹⁴ Decisions were excluded as they regard the admissibility of the application rather than the merits of the case.

¹⁵ Committees were excluded because they decide by a unanimous vote, while rulings by the Grand Chamber and Chambers may contain separate opinions.

¹⁶ For a detailed description of ECtHR’s language regime, see Peruzzo (2019: 29–40).

Words	1,713,844	237,360
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As regards the number of documents under SOs reported in Table 1, a specification is in order. While the number of judgments containing separate opinions included in the corpus is 72, the actual number of separate opinions equals 136 since a single judgment may contain more than one separate opinion.¹⁷ A further specification to be made here is that, for the purposes of this study, separate opinions were treated as a single subcorpus, despite the fact that they can be of different types and can thus express different stances towards the same issues. The most common types are concurring and dissenting opinions, which in the subcorpus amount to 42 and 53 respectively, followed in frequency by partly dissenting opinions (n=29), partly concurring and partly dissenting opinions (n=6), partly concurring opinions (n=3) and opinions which are simply labelled as “separate opinions” (n=3). Since the aim of the paper was not to turn the spotlight on the positioning of ECtHR judges towards LGBTIQ+ people¹⁸ but rather to detect possible traces of inappropriate use of gender labels, distinguishing between the various types of separate opinions was considered superfluous. What was deemed relevant for the study was that separate opinions are drafted by the judges issuing them, who are not bound to follow a fixed structure, and may therefore show a much more subjective, personal tone than the one used in majority opinions (Senden 2011: 21).

The aim of this study is to verify whether gender identity labels are used respectfully in ECtHR judgments. In order to do so, Sketch Engine’s *CQL Concordance* function was used to extract concordances containing the search words *lesbian*, *gay*, *bisexual*, *intersex* and *queer*, which were then observed in the light of the best practices for a respectful use of gender identity labels, as set out in Section 3.1 below. Of all the occurrences extracted, only those contained in segments produced directly by ECtHR judges are analysed. Indeed, court decisions are characterised by a high degree of polyphony (Garzone 2016) or intertextuality (Mattila 2011: 96), which “is inherent in the genre of judgments, because the argumentative discourse that constitutes their backbone may indeed be interpreted in terms of a dialogue, where different voices are interwoven” (Mazzi 2007: 395). ECtHR judgments reveal an interplay between the Court’s voice and many other voices in the form of direct quotes or paraphrases of textual material from many different legislative, judicial or other sources (see also Pontrandolfo and Danisi in this volume). For instance, when describing the circumstances of the case in *Alekseyev v. Russia*, the ECtHR quotes a statement by the mayor of Moscow as reported by the Interfax news agency, according to whom “Those gays trying to lay flowers at the Tomb of the Unknown Soldier ... it is a provocation. It was a desecration of a holy place”. In *Beizaras and Levickas v. Lithuania*, the ECtHR quotes a submission by the Lithuanian Government, according to which “the photograph itself was already rather provocative on account of the kiss between two gays”. In these examples, the label *gay* as a noun is used inappropriately if analysed against the guidelines described below. However, since in these and similar cases the ECtHR quotes external sources, it cannot be held responsible for the inappropriate use of gender identity labels. Therefore, the concordances extracted automatically through the *CQL Concordance* function were verified manually so as to separate the segments used by the ECtHR from the quoted segments, and the latter were excluded from the analysis that follows.

3.1 Gender identity labels: Definitions and guidelines

As pointed out in Section 2.2 above, the CoE and the ECtHR encourage the use of respectful and gender-sensitive language through multiple sources. However, a closer look at these materials shows that they provide no specific guidance on the appropriate use of specific gender identity labels. Therefore, in order to establish the benchmark against which the concordances extracted from the

¹⁷ In the subcorpus used for this study, most judgments contained one separate opinion (n=38), 17 judgments contained two SOs, nine judgments three SOs, five judgments four SOs, one judgment five SOs and two judgments six SOs.

¹⁸ The judgments included in the corpus were selected by using the words forming the initialism *LGBTIQ+* as keywords but did not necessarily deal with *LGBTIQ+* issues.

corpus had to be compared, the brief definitions for the search words found in the *Gender Matters* glossary (hereafter “G_Gender Matters”) were combined with the definitions drawn from sources external to both the CoE and the ECtHR. In particular, two online glossaries devoted to LGBTQ+ terms were used. The first glossary (hereafter “G_UNFE”)¹⁹ is the one available on the website of UN *Free & Equal*, the United Nations’ global campaign launched in July 2013 in Cape Town, South Africa, aimed at increasing public awareness and support for equal rights and fair treatment of LGBTQ+ people and advocating for stronger legal protections against violence and discrimination based on sexual orientation, gender identity, gender expression and sex characteristics. The second glossary (hereafter “G_GLAAD”)²⁰ is provided by GLAAD, the world’s largest lesbian, gay, bisexual, transgender, and queer media advocacy organisation founded in 1985, as part of its *Media reference guide* (GLAAD). Although not specifically developed for judicial drafting, these two glossaries provide both definitions and practical guidance for a fair, accurate and respectful use of gender identity labels, which may be useful in any type of communication.

In the tables below, the definitions of the terms forming the initialism *LGBTIQ+* (*trans* and *transgender* excluded for the reasons outlined above) as provided in G_Gender Matters, G_UNFE and G_GLAAD are reported. Emphasis is added to highlight the relevant language usage notes, in order to bring to the fore usages currently considered appropriate as well as usages regarded as offensive. When comparing the definitions and explanations it should also be borne in mind that gender identity labels and their meanings have been evolving over time, may mean different things to different people and may be perceived differently by different people. This has two major consequences. The first is that there may be discrepancies between the three sources used in this paper. The second is that, although one or more guidelines recommend and/or discourage using a specific label, this does not mean that that usage meets the expectations or preferences of every LGBTQ+ person. The results presented in Section 4 should thus be read in light of the fact that the three guidelines were deemed to provide common ground and therefore chosen to serve as a benchmark for this study.

Table 2. Definitions of *lesbian*

Gender identity label	G_Gender Matters	G_UNFE	G_GLAAD
lesbian	A word used to name a homosexual woman	A term to describe women who are emotionally, romantically and/or sexually attracted to other women. Some non-binary people may also identify with this term. A lesbian can have any gender identity, gender expression or sex characteristics. Used next to a noun i.e. lesbian women, and also as a noun i.e. a group of lesbians.	A woman whose enduring physical, romantic, and/or emotional attraction is to other women. Some lesbians may prefer to identify as gay (adj.) or as gay women. Avoid identifying lesbians as “homosexuals.” Lesbian can be used as a noun or adjective.

Table 2 clearly shows, as the following tables do, that the definitions provided by G_Gender Matters are extremely brief and do not contain any language guidance. By comparing the three definitions, it emerges that G_Gender Matters defines the term *lesbian* by using the word *homosexual* (and the same can be found in the definition of *gay* in Table 3 below), the use of which is discouraged by G_GLAAD; G_UNFE and G_GLAAD are richer in practical usage information, with both glossaries

¹⁹ <https://www.unfe.org/know-the-facts/definitions> (accessed 19 May 2024).

²⁰ <https://glaad.org/reference/terms/> (accessed 19 May 2024).

specifying that *lesbian* can be used either as a noun or as an adjective. This is of relevance since with regard to other gender identity labels the use of one part of speech rather than another may lead to a disrespectful usage of language, such as in the case of the term *gay*.

Table 3. Definitions of *gay*

Gender identity label	G_Gender Matters	G_UNFE	G_GLAAD
gay	Refers to a person who is homosexual, usually a man. However, it is sometimes used to describe homosexual people regardless of their gender ('gay people')	A generic term to describe people who are emotionally, romantically, and/or sexually attracted to people of the same gender. While it is more commonly used to describe men, some women and non-binary people may also identify as gay. A gay person can have any gender identity, gender expression or sex characteristics. Used next to a noun i.e. gay man.	An adjective used to describe a person whose enduring physical, romantic, and/ or emotional attractions are to people of the same sex (e.g., gay man, gay people). Sometimes lesbian (n. or adj.) is the preferred term for women. Avoid identifying gay people as “homosexuals” an outdated term considered derogatory and offensive to many lesbian and gay people.

By comparing the definitions in G_UNFE and G_GLAAD of *lesbian* and *gay*, it can be noticed that part of speech plays a role in the respectful use of language, given that *gay* should only be used in the adjectival slot.

As regards the term *bisexual* and its variants (Table 4), G_Gender Matters provides no definition, but rather defines the term *bisexuality* as the “emotional, romantic and sexual attraction to both men and women”.

Table 4. Definitions of *bisexual* and its variants

Gender identity label	G_Gender Matters	G_UNFE	G_GLAAD
bisexual bi bi+	n.a.	A term to describe people who are emotionally, romantically and/or sexually attracted to people of more than one gender. Being bisexual does not necessarily mean a person is equally attracted to all genders. Often people who have a distinct but not exclusive preference for one gender may also identify as bisexual. A bi person can have any gender identity, gender expression or sex characteristics. Used next	An adjective used to describe a person who has the potential to be physically, romantically, and/or emotionally attracted to people of more than one gender, not necessarily at the same time, in the same way, or to the same degree. The <i>bi</i> in bisexual refers to genders the same as and different from one's own gender. Do not write or imply that bi means being

		to a noun i.e. bisexual woman, bi man.	attracted to men and women. That is not an accurate definition of the word. Do not use a hyphen in the word bisexual.
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G_Gender Matters' definition seems in sharp contrast with G_GLAAD's definition, which expressly recommends avoiding writing or implying that being bisexual "means being attracted to men and women", but also with G_UNFE's definition, which highlights a variable degree of emotional, romantic and/or sexual attraction to people of more than one gender, without specifying which genders. In line with the specifications for the term *gay*, both G_UNFE's and G_GLAAD's definitions encourage the use of *bisexual* and its variants in the adjectival slot, with the latter source also discouraging the use of the hyphenated variant of the term.

The next gender identity label analysed is *intersex* (Table 5), for which Gender Matters provides a slightly longer definition compared to the previous ones, from which we can infer that *intersex* should be used as an adjective, given that the definition opens with the term "intersex people", an aspect that is pointed out explicitly in the other two definitions.

Table 5. Definitions of *intersex*

Gender identity label	G_Gender Matters	G_UNFE	G_GLAAD
intersex	Intersex people are born with sex characteristics - including genitals, gonads and chromosomes - which do not fit the typical binary notion of male or female bodies. Sometimes intersex traits are visible at birth, but often they will not become clear until puberty.	A term that refers to people born with physical sex characteristics (such as sexual anatomy, reproductive organs, hormonal patterns and/or chromosomal patterns) that do not fit typical definitions for male or female bodies. These characteristics may be internal or external, may be apparent at birth or emerge from puberty, or not be physically apparent at all. There exists a broad and diverse spectrum of sex characteristics among intersex people. Intersex people may use the term in different ways such as "being intersex" or "having an intersex variation", or they may prefer not to use the term at all. An intersex person may have any gender identity, gender expression or sexual orientation. Used	An adjective used to describe a person with one or more innate sex characteristics, including genitals, internal reproductive organs, and chromosomes, that fall outside of traditional conceptions of male or female bodies. Do not confuse having an intersex trait with being transgender. Intersex people are assigned a sex at birth — either male or female — and that decision by medical providers and parents may not match the gender identity of the child.

		next to a noun i.e. <i>intersex person</i>.	
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G_UNFE's definition also gives some other clues on how the label is used, stating that intersex people may combine the term *intersex* with the noun *variation* or prefer not to use any expression containing the word *intersex*. On the contrary, G_GLAAD's definition specifies that having an intersex trait does not mean being transgender, which implicitly reveals that there may be confusion as regards the use of *intersex* and *transgender*.

The last gender identity label discussed here is *queer* (Table 6). As emerges from G_GLAAD's definition, the Q in *LGBTIQ+* can also stand for *questioning*, which however produced no search results in HUDOC. In line with the other labels seen so far except for *lesbian*, G_UNFE and G_GLAAD describe *queer* as an adjective. Given the changes this label has undergone over time in terms of connotation, the two sources also briefly indulge in describing the evolution from an offensive or pejorative term to a more neutral label, although both specify that it is not a generally accepted term.

Table 6. Definitions of *queer*

Gender identity label	G_Gender Matters	G_UNFE	G_GLAAD
queer	A general term referring to people not fitting into existing norms related to gender.	Historically an offensive term in English, "queer" has been reclaimed by some people as an inclusive umbrella term for persons with diverse sexual orientations, gender identities and expressions. Queer is increasingly used by many people who feel they do not conform to a given society's norms based on their sexual orientation, gender identity and/or gender expression. However, it should be noted that this term has not been universally embraced. Some, especially those who experienced this term being used in a cruel and derogatory manner to harass them, might not embrace it to define their identities. Used next to a noun i.e. <i>queer person</i>.	An adjective used by some people, particularly younger people, whose sexual orientation is not exclusively heterosexual (e.g. queer person, queer woman). Typically, for those who identify as queer, the terms lesbian, gay, and bisexual are perceived to be too limiting and/or fraught with cultural connotations they feel do not apply to them. Once considered a pejorative term, queer has been reclaimed by some LGBTQ people to describe themselves. However, it is not a universally accepted term even within the LGBTQ community, so use caution when using it outside of describing the way someone self-identifies or in a direct quote. When Q is seen at the end of LGBT, it typically means queer. In a setting for support,

			particularly for youth, it may mean questioning.
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The last element found in the *LGBTIQ+* initialism is the plus symbol (+), which is only accounted for by G_UNFE, which defines it as follows: “The plus symbol represents people with diverse sexual orientations, gender identities and expressions or sex characteristics that are perceived not to conform to social norms and who identify with terms other than lesbian, gay, bisexual, transgender, intersex or queer. There are many such terms which can vary across cultures, languages and demographic groups.” With regard to this symbol, it must be pointed out that it does not occur individually but only in the initialism, and hence it could not be analysed in the same way as the other gender identity labels discussed in the Results section.

4 Results

The definitions in G_UNFE and G_GLAAD reported in Section 3.1 above give us some more or less explicit clues on a respectful use of gender identity labels, especially as regards part of speech. In order to check whether ECtHR judges use gender identity labels in a non-derogatory way, these labels were observed in the concordances extracted from the subcorpora to verify whether they occupy the noun or the adjective slot. This was done to separate properly used labels from potentially offensive expressions, at least in relation to those labels which are preferably used in the adjectival rather than nominal form.

In Tables 7 and 8, the total number of occurrences for each gender identity label in majority opinions and separate opinions respectively is shown, together with normalised figures (per 100,000 words). This total number is then broken down into hits where the labels appear in the noun slot and hits where they occupy the adjectival slot. Since Sketch Engine’s automatic POS tagger does not yield completely reliable results, every concordance line was manually checked in order to assign the correct part of speech to each hit. In the tables below, the numbers of occurrences are further split between segments which are quotes from external sources and segments produced directly by ECtHR judges.

Table 7. Gender identity labels in majority opinions

			noun				adjective			
	total		quote		no quote		quote		no quote	
	raw	normalised	raw	normalised	raw	normalised	raw	normalised	raw	normalised
lesbian	206	12.02	7	0.41	19	1.11	81	4.73	99	5.78
gay	278	16.22	17	0.99	12	0.70	119	6.94	130	7.59
bisexual	131	7.64	5	0.29	2	0.12	75	4.38	49	2.86
intersex	84	4.90	1	0.06	1	0.06	50	2.92	32	1.87
queer	1	0.06	1	0.06	0	0.00	0	0.00	0	0.00
	700	40.84	31	1.81	34	1.98	325	18.96	310	18.09

Table 8. Gender identity labels in separate opinions

	noun	adjective
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	total		quote		no quote		quote		no quote	
	raw	normalised	raw	normalised	raw	normalised	raw	normalised	raw	normalised
lesbian	4	1.69	0	0.00	1	0.42	3	1.26	0	0.00
gay	13	5.48	0	0.00	0	0.00	12	5.06	1	0.42
bisexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
intersex	12	5.06	0	0.00	0	0.00	11	4.63	1	0.42
queer	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
	29	12.22	0	0.00	1	0.42	26	10.95	2	0.84

4.1 Gender identity labels and part of speech

If we consider the total number of hits reported in Tables 7 and 8, we can notice that the occurrences of gender identity labels in majority opinions largely outnumber those in separate opinions, except for *intersex*, which is comparatively more frequent when used as an adjective in quoted material in SOs than in MOs. We can also notice an unsurprising fact, namely that some gender identity labels outnumber the other labels, given that the occurrences of the labels depend, on the one hand, on the persons involved in the single cases and, on the other, on the historical period. This is so because the terms designating the various types of gender identity or expression have been evolving over time and their evolution has experienced an acceleration in recent times, with a wider variety of terms used today compared to the past. By analysing majority opinions and separate opinions separately, we can notice that in majority opinions a total of 700 gender identity labels were retrieved, 356 of which belonging to quoted segments and 344 to textual material produced directly by ECtHR judges. In separate opinions, the number of hits is extremely low, with a total of 29 gender identity labels, only three of which found in non-quoted textual material.

The aim here is to verify whether in the segments produced by ECtHR judges the labels are compliant with the guidance provided in the definitions reported in Section 3.1, in particular as regards the slot they occupy in the concordance. As discussed in Section 3.1, the term *lesbian* may be used respectfully regardless of the slot it occupies, while *gay*, *bisexual*, *intersex* and *queer* should be used as adjectives only. In majority opinions, the nominal use of the label *gay* contravenes the guideline 12 times out of 142 hits, *bisexual* twice out of 51 and *intersex* once out of 33. The term *queer* does not appear at all in non-quoted material. In separate opinions, the two gender identity labels relevant here, namely *gay* and *intersex*, appear in the adjectival slot and are thus consistent with the guidelines described above.

By looking at the slots the gender identity labels analysed occupy alone, the texts produced by ECtHR judges mostly comply with the guidelines and are thus *prima facie* used in a respectful manner. However, using gender identity labels as adjectives does not necessarily mean that their use in context may not be perceived as offensive or derogatory. While the subjective perception of language use cannot be analysed through corpus linguistics methods, what can be done in this case is observe the immediate cotext of gender identity labels and, in particular, the nouns accompanying them. Indeed, as seen in Section 3.1, G_GLAAD's definitions contain indications on expressions to avoid, but the same webpage also contains a section illustrating terms to avoid and best practices, which also concern the gender identity labels analysed in this paper.

4.2 Gender identity labels in context

In order to expand the analysis beyond the slots occupied by gender identity labels in the corpus, G_GLAAD's guidelines on terms to avoid and best practices were used. Due to space constraints, not all the terms to avoid were taken into account: the analysis concentrated on two words, namely *lifestyle* and *rights*, which are neither offensive nor denigratory per se, but according to G_GLAAD may be perceived as such because of the implications they may acquire once combined with gender identity labels.

4.2.1 Lifestyle

In G_GLAAD, the term *lifestyle* is described as an “[i]naccurate term used by anti-LGBTQ activists to denigrate LGBTQ people and inaccurately imply that being LGBTQ is a voluntary or a ‘choice’” and that “[a]s there is no one straight lifestyle, there is no one LGBTQ lifestyle”. Being more specific by using expressions such as *gay lifestyle*, *homosexual lifestyle* or *transgender lifestyle* is equally inappropriate according to G_GLAAD, given that they “are used to denigrate LGBTQ people by inaccurately suggesting that their sexual orientation and/or gender identity is a choice and therefore can and should be ‘cured’ or ‘changed’”.

A corpus search reveals that the only case in which the term *lifestyle* appears in combination with one of the gender identity labels analysed above is found in a quotation in the majority opinion in *Macaté v. Lithuania* rather than in a segment produced by ECtHR judges (emphasis added):

Unfortunately, any member of the *Seimas* who has any knowledge of the methods used to promote **gay and lesbian lifestyles** and supposedly new identities should clearly see that that is manifestly insufficient for stopping direct propaganda for homosexual partnerships or direct propaganda for sexual relations.

The use of this expression in this context is in line with the anti-LGBTIQ+ sentiment expressed by the speaker who pronounced these words in the *Seimas*, the Lithuanian Parliament, which can be clearly understood by reading the whole passage (e.g., the lexical choices of *supposedly new identities* and *direct propaganda for homosexual partnerships*). However, as stated earlier, reporting someone else's words does not mean that ECtHR judges agree with their view. And this fact is further reinforced when we observe the use of the term *lifestyle* in combination with another gender identity label whose use is discouraged by G_GLAAD, namely *homosexual*. The search for *homosexual lifestyle* returned eight hits in majority opinions, only three of which not appearing in a quotation. In these three cases, all of which from *Bayev and Others v. Russia*, ECtHR judges indirectly report the allegations of the respondent State, i.e. Russia, and the third-party comments received from the Family and Demography Foundation, a Russian non-profit organization primarily engaged in family and parental rights advocacy and the protection of human rights and human dignity:

The Government considered that the applicants were not simply pursuing the aim of expressing their views, or of informing others in a neutral manner. Their statements were thus not a harmless “mention” of homosexuality or a contribution to a public debate on sexual minorities' social status. The applicants specifically targeted an underage audience – hence the choice of venues – so as to impose a **homosexual lifestyle**, to plant an attractive and even superior image of same-sex relations in the minds of minors and to corrupt their vision on traditional family values. They had thus encroached on the moral and spiritual development of children. According to the Government, statements such as “homosexuality is natural”, “homosexuality is normal” or “homosexuality is good” placed psychological pressure on children, influenced their self-identification and intruded into their private lives.

The submissions of the Family and Demography Foundation focused on the risks associated, in their view, with a **homosexual lifestyle**. They argued that homosexual men ran a higher risk of contracting HIV than heterosexual men, and that they were more likely to suffer from suicidal tendencies, depression, anxiety, substance abuse and similar disorders.

They also submitted that **homosexual lifestyles** and behaviour were regarded as immoral by all major religions, and that the majority of non-believers shared this view.

Although these passages do not contain direct quotations, it is evident that they are meant to reproduce the arguments submitted by the parties to the case or interveners. It is therefore not particularly remarkable that, if the parties or interveners defend positions in favour of mainstream gender binary, in the passages that recall such positions expressions that may be perceived as inappropriate, offensive or derogatory appear. Again, this does not mean that ECtHR judges are aligned with these positions, and this also emerges from another passage from the same case where punctuation is used to indicate a quotation but possibly also the Court's detachment from the negative connotation of the expression:

Finally, the Government's third line of argument focused on the need to shield minors from information which could convey a positive image of homosexuality, as a precaution against their conversion to a "**homosexual lifestyle**" which would be detrimental to their development and make them vulnerable to abuse.

A similar attitude can be found in passages where the term *lifestyle* is not premodified by any gender identity label, as in *E.B. v. France*:

The applicant maintained that the refusal to grant her authorisation to adopt had been based on her "**lifestyle**", in other words her homosexuality. In her view, this was borne out by the screening of her application and the opinion of the adoption board. She also considered that part of the judgment delivered by the *Conseil d'Etat* was worded in the same terms as the judgment it had rendered in the case of *Fretté* (cited above), which showed that the *Conseil d'Etat* adopted a discriminatory approach.

In this case, the ECtHR quotes in the majority opinion the term *lifestyle* from domestic case law but leaves no doubt as to how it should be interpreted, namely meaning homosexuality. The same use of the term *lifestyle* can be found in separate opinions. This can be seen, for instance, in the partly concurring opinion of Judge Costa, joined by Judges Jungwiert and Traja, in *Frette v. France*, where the judge specifies what *lifestyle* refers to:

Because the sole ground given for the refusal of authorisation was the applicant's **lifestyle**, which was an implicit yet undeniable reference to his homosexuality, the right guaranteed by Article 343-1 of the Civil Code was infringed on the basis of his sexual orientation alone [...].

In the examples seen so far, either the majority or a minority of judges use the term *lifestyle* as employed by the national courts, and we cannot say that ECtHR judges agree with considering a "homosexual lifestyle" to be different from other lifestyles nor that they attribute a negative connotation to the term *lifestyle*. However, in the dissenting opinion of Judge Loucaides in *E.B. v. France*, the judge disagrees with the majority in that he does not believe that the applicant's homosexuality influenced the assessment of her application and was a decisive factor leading to the decision to refuse her authorisation to adopt. Despite acknowledging everybody's right not to be discriminated against, he uses the term *lifestyle* to refer to homosexuality and specifies that "homosexuals" may not "qualify for certain activities":

Homosexuals, like anybody else, have a right to be themselves and should not be the target of discrimination or any other adverse treatment because of their sexual orientation. However, they must, like any other persons with some peculiarity,

accept that they may not qualify for certain activities which, by their nature and under certain circumstances, are incompatible with their **lifestyle** or peculiarity.

Contrary to the previous passages, in this one, where “homosexuals” are depicted as people with a “peculiarity”, the judge’s lexical choices convey his standpoint, which may be seen to show a form of anti-LGBTIQ+ sentiment.

4.2.2 Rights

Another apparently neutral term that may assume an offensive or derogatory meaning when combined with gender identity labels, according to G_GLAAD, is the term *rights*. G_GLAAD lists expressions such as **gay rights** and **special rights** among the terms to avoid, since LGBTIQ+ people “are not asking for rights that are different from the rights everyone has. They are simply seeking full equality under the law and an end to discrimination based on sexual orientation, gender identity and gender expression”. Therefore, G_GLAAD suggests substituting these expressions with *equality for LGBTQ people* or other paraphrases such as *LGBTQ people are advocating to be treated equally*.

A corpus search for the term *rights* preceded by a gender identity label only revealed a very limited number of hits for *gay rights*. The search was then expanded also to *homosexual rights* (and its variant *homosexuals’ rights*), and the number of hits is reported in Table 9.

Table 9. Distribution of *gay rights* and *homosexual rights* in MOs and SOs

	MOs	SOs
gay rights	10	1
homosexual rights	2	1
homosexuals’ rights	3	0

As regards *gay rights*, in both majority and separate opinions all the occurrences belong to segments drafted directly by ECtHR judges. However, it must be stated that, in nine cases out of ten, in majority opinions the expression does not appear on its own but rather as a premodifier, preceding *activist* in seven cases and *movement* in two cases, as shown in the two examples below:

The applicant was born in 1977 and lives in Moscow. He is a **gay rights activist**. (*Alekseyev v. Russia*)

On 15 June 2010 the applicants notified the St Petersburg Security Department of their intention to hold a Gay Pride march and a subsequent meeting on 26 June 2010, the anniversary of the start of the **gay rights movement** in the United States of America (“the USA”) on 26 June 1969. (*Lashmankin and Others v. Russia*)

G_GLAAD recommends avoiding the use of *gay rights* but – understandably enough, given that it cannot take into account every word combination in which this expression can appear – provides no guidelines as to the use of *gay rights* as a premodifier in multi-word units. Expressions such as *gay rights movement* and *gay rights activist* follow the same pattern as *civil rights movement* and *civil rights activist* and are so deeply rooted in language²¹ that it would be implausible and impractical, at least for the time being, to expect anyone, let alone the ECtHR, to use an expression alternative to the ones which are so well-established, recognisable and perceived as neutral.

The only hit in majority opinions in which *gay rights* appears as a standalone term is the following:

²¹ See, for instance, Britannica’s entry for *gay rights movement*, in which both expressions are used (<https://www.britannica.com/topic/gay-rights-movement>, accessed 26 August 2024).

The applicant made a second asylum application on 27 March 2008. In doing so, he described two violent incidents he had experienced in Zimbabwe: first, he claimed that in 2000 he had been attacked by Zanu-PF supporters with knives, sticks and sandbags while protesting about **gay rights**; and secondly, he claimed that later that same year he had been arrested for demonstrating and beaten on his back and the soles of his feet while detained at a police station. (*S.M.M. v. the United Kingdom*)

In this case, as in some of the examples provided for the term *lifestyle*, the segment in which *gay rights* appears actually indirectly reports the applicant's claims, so the term may have been drawn from the applicant's submissions. Furthermore, it must be said that the case does not revolve around LGBTIQ+ issues, and this is actually the only occurrence of a gender identity label in the whole judgment. Given the peripheral role of the term, it may be concluded that its use was not meant to show any particular stance of ECtHR judges on LGBTIQ+ issues.

As regards separate opinions, the only occurrence of *gay rights* is found in the following passage:

In the third applicant's case, however, a combination of back-stabbing by her colleagues and the blinkered political correctness of the Borough of Islington (which clearly favoured "**gay rights**" over fundamental human rights) eventually led to her dismissal. (Joint partly dissenting opinion of Judges Vučinić and De Gaetano, in *Eweida and Others v. the United Kingdom*)

The use of inverted commas here does not signal a quotation but may be understood as a way to point out the peculiar use of the term as an umbrella term including "the rights of the lesbian, gay, bisexual and transsexual community", which is the expression used in the majority opinion. Therefore, also in this case the term should not be interpreted as offensive or derogatory, but rather as a short form of a longer – and evidently more accurate – expression.

The term *homosexual rights* and its variant *homosexuals' rights* occur with an even lower frequency in the corpus, with five occurrences in majority opinions and one in separate opinions, all of which found in segments directly drafted by ECtHR judges. As already seen in Section 3.1, *homosexual* is nowadays considered outdated and may be perceived as derogatory and offensive because, due to its clinical history, it is aggressively used by anti-LGBTQ activists to suggest that people attracted to the same sex are diseased or psychologically or emotionally disordered. Furthermore, it should be used as an adjective rather than a noun, and the guidelines also suggest avoiding using it as a style variation to escape the repetition of the term *gay*. As in previous cases, also with regard to these terms some lexical choices could have been influenced by the reference material used, such as in the following case:

Lastly, they submitted that the venue proposed by the Security Department was unsuitable because it was located in a sparsely populated area in the middle of a forest. It was therefore not the right venue to draw the attention of society and the authorities to the violation of **homosexuals' rights**, because there would be no representatives of the authorities or the general public present. (*Lashmankin and Others v. Russia*)

In other cases, the historical period and the relevant awareness and evolution of LGBTIQ+ issues are undeniable factors influencing the choice of a term over another, such as in *Norris v. Ireland*:

Mr Norris is an active homosexual and has been a campaigner for **homosexual rights** in Ireland since 1971; in 1974 he became a founder member and chairman of the Irish Gay Rights Movement. (*Norris v. Ireland*)

In this case, the judgment was passed in 1988, and at that time the use of *homosexual* was not perceived as offensive or derogatory.

5 Conclusions

The aim of the European Convention on Human Rights is to protect human rights and fundamental freedoms and promote democracy among the 46 members of the Council of Europe. It therefore protects people against any form of discrimination, including that based on gender identity or sexual orientation. At the time the Convention was drafted, in the immediate aftermath of World War 2, issues such as gender identity and sexual orientation had no visibility in either social or political spheres. Accordingly, the rights enshrined in it (e.g., the right to marry) primarily addressed people that met the mainstream gender binary. Over time, the sensitivity towards gender-related issues has changed, with increasing attention devoted first to gender-related violence and discrimination against women. This has led to the adoption of several international instruments first to prevent and combat violence against women and foster gender equality and then to protect the rights of gender and sexual minorities, as reported in Section 2.1 of this chapter. Alongside these instruments, a number of guidelines and reference materials have been developed to ensure that non-derogatory and non-discriminatory language is used when referring to LGBTIQ+ people, as shown in Section 2.2.

This study extends a previous study which explored the use of three transgender identity labels, namely trans, transgender and transsexual in a corpus of ECtHR judgments (Peruzzo 2024). In line with it, the aim here was to observe whether, in the inherently argumentative texts that ECtHR judgments are, judges' use of gender identity labels is compliant with existing guidelines for a respectful use of language or may carry potential bias, prejudice or stereotyped views. In particular, the aim was to examine the other gender identity labels forming the LGBTIQ+ initialism in ECtHR judgments, namely lesbian, gay, bisexual, intersex and queer (or questioning). For this reason, a new corpus was created using these labels as search terms and new reference materials were used (the glossaries provided by the Council of Europe's webpage Gender Matters and UN's Free & Equal campaign website) compared to the previous study.

The principal recommendation found in the reference materials is that, in order not to be perceived as offensive or derogatory, all the mentioned labels except for lesbian should be used as adjectives rather than nouns. The exploration of the corpus revealed that most occurrences of the relevant labels satisfy this recommendation, and this is so in both majority and separate opinions. Based on the mere observation of the slot these labels occupy, without looking at the cotext, ECtHR judges can be said to generally use gender identity labels in a respectful way.

Alongside this recommendation, GLAAD's glossary also include indications as to the terms to avoid and the best practices to replace potentially offensive or derogatory terms. In order to expand the analysis, two of the terms whose usage is discouraged have been selected, namely *lifestyle* and *rights*. The choice fell on them because they are commonly conceived as neutral terms, but they may assume a different undertone when co-occurring with gender identity labels. The corpus search revealed a very low number of hits for these two terms combined with gender identity labels, leading to some conclusions that should be further explored in future studies. The first conclusion is that, even though a certain possibly offensive or derogatory term appears in a judgment, its presence may not show the attitude or standpoint of the drafter but rather that of an external source, or of a different voice. This is clear when the term appears in direct quotations, which were excluded at the outset because the standpoint of the ECtHR was at the core of the analysis here. However, judgments are highly polyphonic texts in which a wide variety of external materials are reported or referred to indirectly, since they contribute to the reconstruction of the facts and the argumentation of the decision. It may therefore happen that the language used by ECtHR judges is not wholly compliant with the guidelines for a respectful use of language, but that such use is due to the influence of the external sources they rely on.

Another remark to be made at this point is that the judgments analysed in this study have been issued over four decades, while the reference materials used as benchmarks are much more recent and reflect an unprecedented sensitivity towards a respectful use of language as well as a greater gender diversity than in the past. If not properly worn, the contemporary lenses provided by these materials could lead to considering certain terms or expressions to be disrespectful, while at the time of drafting they were perfectly acceptable, as is the case with *homosexual*.

All this said, of all the concordances containing gender identity labels extracted from the corpus, only one is believed to clearly show a bias against LGBTIQ+ people, and this one is found in a separate opinion. This reinforces the idea that, at least as regards the lexical choices related to gender identity labels, when expressing majority opinions the ECtHR makes a respectful use of language, while separate opinions may leave room for a more connoted language use.

A limitation of this study is that, due to space constraints, it is restricted to a limited number of lexical choices. As the examples regarding the term *lifestyle* show, the corpus linguistics approach adopted should be supplemented by a systematic critical discourse analysis approach in order to expand the investigation beyond individual segments. This would allow, for instance, for the recognition of possible cases of judges' – more or less explicit – agreement or disagreement with quoted material containing disrespectful language. This study is therefore seen as one of the first steps in the exploration of possible derogatory language in judicial discourse, a form of discourse that is expected to be non-discriminatory and hence non-derogatory.

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