

Queen's University Belfast

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## When the battle continues

The (lack of) protection of LGBT\* asylum-seekers in the EU asylum  
system

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## ABSTRACT

This thesis gives an overview of the multi-fronted battle LGBT\* asylum-seekers must often fight to receive protection from discrimination and violence. As an introduction, it discusses the kinds of homo- and transphobic violence and discrimination these individuals may encounter worldwide. The second phase of this battle is their fight for refugee status. A schematic outline is provided of influential domestic case law and UNHCR soft law. Next, EU legislation is analysed, which indicates that in every Member State, some form of international protection should be provided to individuals who have been or can be subjected to serious human rights violations on the basis of their sexual orientation and/or gender identity. LGBT\* individuals who come to the EU can nevertheless experience abuse, mental health problems and a lack of health care in asylum accommodation. This situation is perceived as the third front of their battle. While UNHCR has by now developed many tools to deal with this issue, under EU law, only the extra protection regime of the Recast Reception Conditions Directive could provide solace. This however requires the qualification of LGBT\* asylum-seekers as vulnerable. Although a case study on Belgium indicates that this is indeed needed for a coordinated approach to be established, it is concluded that the economic origin of the EU stands in the way of a true refugee-oriented asylum system.

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