



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



CommDH/Speech(2016)2
[English only](#)

European societies should recognise the full diversity of gender identities

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European Transgender Council “Transforming Europe – 10 years of movement building” Bologna, 3 June 2016

European societies need to recognise the full diversity of gender identities among their members. Trans people have the right to determine and express their individual gender identity and be fully included in their societies. Recent years have demonstrated that real progress can be made in fulfilling trans people’s human rights.

The European Court of Human Rights was instrumental in establishing the right to legal gender recognition in its landmark judgment in the case of *Christine Goodwin v. the United Kingdom* in 2002. Since then, the focus of discussion and reforms has been put on the conditions for the official recognition of gender identity. The abusive conditions of sterilisation, divorce, and diagnosis of mental disorder have been obstacles to realising the right to self-determination by trans people. In recent years, I have urged legislative reforms through my country monitoring in Croatia, Finland, Ireland, Poland, San Marino, Serbia, Slovakia and Ukraine.

Fortunately, many countries in Europe have already taken measures to eradicate obstacles to legal gender recognition. A few have taken the further step of providing a simple procedure which is fully based on self-determination. In Denmark, Malta and Ireland even the condition of a medical diagnosis has been abolished. I encourage other member states to follow their example and I know that further reforms are already under way. In its 2015 Resolution on discrimination against transgender people, the Parliamentary Assembly of the Council Europe welcomed the emergence of a right to gender identity which gives every individual the right to be treated and identified according to one’s gender identity.

Along with the progress achieved, there are also widening gaps among member states. Abusive conditions for legal gender recognition are still a fact of life for trans people in many countries. For this reason it is important to clarify the current European standards in this area. Strategic litigation on the condition of sterilisation is already taking place in the European Court with three communicated cases from France. Last year’s judgment in the case of *Y.Y. v. Turkey* was a positive step but it did not yet resolve the issue about sterilisation as a condition to legal recognition but rather as a condition to accessing gender reassignment treatment.

The European Committee of Social Rights is also considering a collective complaint about sterilisation in the Czech Republic with reference to the right to protection of health under the European Social Charter. Transgender Europe is one of the parties which brought this case before the Committee.

The extension of the right to marry to same sex couples has made the divorce requirement obsolete in a growing number of countries. In others, the authorities should take measures to respect the will of the couple to continue in their existing marriage after legal gender recognition. The debate about the condition of a medical diagnosis is now centred on the process of revising the WHO International Classification of Diseases. The current emphasis on self-determination is signalling a shift away from the medical model in official recognition.

While we should celebrate the steps forward taken in the recognition of gender identity, we should not forget that discrimination and hate crime remain a grim reality for many trans people in Europe. 117

killings of trans people in 16 European countries have been documented by the Transrespect versus Transphobia project since data collection started in 2008. Turkey holds the highest figure in Europe followed by Italy. All cases of killings and violence against trans people should be promptly investigated, prosecuted and sanctioned. I highlighted the need for this in a statement regarding Turkey last year. The authorities should also send an unequivocal message in condemning such crimes.

The 2012 LGBT Survey by the EU Agency for Fundamental Rights reported that more than half of all trans respondents felt personally discriminated against or harassed because they were perceived as trans. Over one in three respondents felt discriminated against when looking for a job and a quarter reported discrimination at work. Almost a third of trans students had experienced discrimination in school or university.

Legislative changes are still needed in many countries to protect trans people. Gender identity and expression should be explicitly protected grounds against discrimination in comprehensive equal treatment legislation. Transphobic hatred should be included as a possible motive in national hate crime legislation. Hate crimes require a specific response as they have a greater impact on victims than crimes without a bias-motive by putting into question the very identity of the victim. We need to send a clear message that bias-motivated crime and discrimination against trans people will be sanctioned effectively.

The low level of reporting of hate crimes and discrimination by trans people is another challenge highlighted by the FRA. This reflects unawareness of available remedies and mistrust in law enforcement officials in upholding trans people's human rights. It is obvious that the police and equality bodies have to be active in facilitating reporting. During my visit to Serbia last year, I learned about a promising practice of regional LGBTI liaison officers among the police with the aim of improving contacts and helping build trust between the police and LGBTI people. Trans people who are victims of transphobic violence also need victim support and the police should be adequately trained to treat trans people with respect.

Naturally, we should not forget to address the root causes of intolerance and violence against trans people. If public opinion is hostile towards trans people, governments have a responsibility to raise awareness of gender diversity and the respect for all persons' gender identity. Education plays a central role in changing attitudes and schools should be a safe environment for all students. Confronting intimidation against trans people requires continuous and focused attention from schools and educational authorities. All school children have the right to receive factual information about gender diversity so that they can question the stereotypes often rehearsed in this area.

Trans youth encounter specific obstacles when exercising their right to self-determination. As minors, trans adolescents can find it difficult to access trans-specific health and support services. Legal gender recognition is not usually available to minors. In this area we can discern some parallels with intersex children who are often subject to medical treatment without informed consent to fit in rigid classifications of sex and gender. In an Issue Paper on human rights and intersex people published last year, I urged governments to end medically unnecessary 'normalising' treatment of intersex persons without their free and fully informed consent. I also proposed measures to protect them against discrimination and to facilitate the legal recognition of sex and gender.

The current refugee movements in the world also involve trans people. Many trans people are on the move fleeing conflict and also persecution on the ground of their gender identity. It is essential that trans people are recognised as a social group deserving protection under the UN Refugee Convention. European governments should follow UNHCR guidelines in this area in their refugee determination procedures. The specific needs of trans refugees should also be taken into account in the provision of accommodation to prevent abuse and violence. The city of Berlin in Germany has been a pioneer in providing LGBTI specific refugee shelters. This practice should be replicated in other places in Europe as well.

The first European Transgender Council was held in November 2005 in Vienna. For more than ten years TGEU has provided leadership for a truly European trans movement. TGEU's current 97 member organisations in 42 countries demonstrate the remarkable strength of the European trans movement. TGEU has become a force to be reckoned with and its advocacy work with European and

international organisations has been essential for putting the human rights of trans people on the European agenda. It has been a privilege for myself and my Office to cooperate with TGEU over the years in pushing this agenda forward. We have good reasons for celebrating in Bologna today.

The direction of the movement for trans equality and the recognition of gender diversity is quite clear. We already have living examples of our goals in a number of countries. The current challenge is to bridge the widening gaps between different countries. We cannot afford to leave so many trans people behind others. We have to fulfil the human rights of all trans people in every country in Europe. I wish all the best to your deliberations during this conference. I remain an ally with the movement for the full equality of trans people and will continue to uphold the human rights of trans persons in my work.