

AMNESTY INTERNATIONAL

Questions and Answers

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Transgender people in Europe

Questions and Answers

Who is a transgender person?

Transgender people are people whose innate sense of their own gender differs from the sex they were assigned at birth, experience and express their gender identity according to a variety of patterns. Some transgender people identify themselves as fully male or female; others perceive their gender identity in a continuum between the two.

Some of them wish to change their bodies through gender reassignment treatments that may include hormone treatment, chest surgery or genital surgery. Others wish to undergo only part of the treatments (e.g. hormone treatment) or no treatments at all.

Why is gender legal recognition so important?

In most countries, individuals have a legal gender that corresponds to the sex they were assigned at birth. The legal gender appears on multiple official documents (including birth certificates, identity cards and passports) and determines how people are perceived throughout their lives, from birth until death. Depending on the specific country, individuals may be asked to produce an official document when they enrol in school, apply for a job, access a public library or open a bank account.

The issue of legal gender recognition is central to ensure that transgender people can fully enjoy their rights, without discrimination. Amnesty International's report *The States decides who I am – lack of recognition of transgender people in Europe* highlights the variety of human rights violations experienced by transgender people when they wish to change their legal gender.

How many transgender people live in Europe?

The exact number of transgender people living in Europe is unknown. In the past estimations were primarily based on the number of people who had undergone genital reassignment surgeries or were undergoing hormone treatment. According to some of these estimates, there may be around 30,000 transgender people in the European Union.

However, those estimates fail to take into account all the transgender people who do not undergo reassignment surgeries or other health treatments. Other surveys suggest there could be as many as 1.5 million people in the EU who do not fully identify with the sex they were assigned at birth.

Is gender legal recognition a human rights issue?

In 1992, the European Court of Human Rights (ECHR) recognized for the first time that a state's refusal to allow transgender people to change the gender markers on their official documents in order to be legally recognized was a violation of the European Convention on Human Rights. However, transgender people in Europe continue to struggle to have their gender legally recognized.

Many states require transgender people to undergo medical procedures such as lengthy hormone treatments and surgeries resulting in irreversible sterilization, as well as to be single or to be a certain age (over 18) in order to allow for a change in one's legal gender. If not, they must continue to bear documents indicating the gender on the basis of the sex they were assigned at birth – even if that contradicts their appearance and identity.

How do present day practices of legal gender recognition violate the human rights of transgender people?

Transgender people have to choose some human rights at the expense of others. In order to obtain documents reflecting their gender and enjoy equal recognition before the law, they have to renounce their right to private life; divorce their partners; lose their reproductive rights by undergoing sterilization. Such choices are contrary to the state obligation to ensure that everyone can enjoy human rights without any discrimination, including on grounds of gender identity and gender expression.

As a result of current practices regulating legal gender recognition, transgender people have to wait years to obtain documents that reflect their gender identity. The divergence between their gender, appearance and documents leads to the violation of their right to privacy and in some instances to discrimination in the job-market, at school or in accessing services.

What is the legal gender recognition in different European countries?

Although there are differences among European countries, most of them, such as Denmark, Finland, France, Norway, Belgium and Germany have legal gender recognition procedures that require compulsory psychiatric diagnosis and medical requirements – including irreversible treatments leading to sterilization. In general, the procedure takes years and violates the human rights of transgender people.

In Ireland, transgender people cannot obtain legal gender recognition of their gender.

What legal gender recognition procedures should look like?

Governments must allow individuals to change their legal name and gender, including on official documents issued by the state, through a quick, accessible, and transparent procedure and in accordance with the individual's sense of gender identity, while ensuring that all information concerning changes of legal name and gender is kept confidential.

Governments should abolish requirements compelling transgender people to undergo a psychiatric assessment and medical treatments such as surgery and sterilization and to be single before obtaining legal gender recognition.

What else governments could do to ensure that the rights of transgender people are fulfilled?

Governments must provide legal protection from discrimination and violence on grounds of sexual orientation and gender identity and expression, and take steps to raise public awareness of transgender identities and the discrimination experienced by transgender people. Furthermore, governments should refrain from adopting policies stemming from gender stereotypes and ensure that existing policies and practices embedding such stereotypes are reformed.

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