Recommendation 1117 (1989)[1]

Condition of transsexuals

Parliamentary Assembly

The Assembly,

1. Considering that transsexualism is a syndrome characterised by a dual personality, one physical, the other psychological, together with such a profound conviction of belonging to the other sex that the transsexual person is prompted to ask for the corresponding bodily ‘‘correction" to be made ;

2. Considering that modern medical progress, and in particular recourse to sexual conversion surgery, enable transsexuals to be given the appearance and, to a great extent, the characteristics of the sex opposite to that which appears on their birth certificate ;

3. Observing that this treatment is of a nature to bring the physical sex and the psychological sex into harmony with one another, and so give such persons a sexual identity which, moreover, constitutes a decisive feature of their personality ;

4. Believing that account of the changes brought about should be taken in the transsexual's civil status records by adding such details to the original record so as to update the data concerning sex in the birth certificate and identity papers, and by authorising a subsequent change of forename ;

5. Considering that a refusal of such amendment of the civil status papers exposes persons in this situation to the risk of being obliged to reveal to numerous people the reasons for the discrepancy between their physical appearance and legal status ;

6. Noting that transsexualism raises relatively new and complex questions to which states are called upon to find answers compatible with respect for human rights ;

7. Observing that, in the absence of specific rules, transsexuals are often the victims of discrimination and violation of their private life ;

8. Considering, furthermore, that the legislation of many member states is seriously deficient in this area and does not permit transsexuals, particularly those who have undergone an operation, to have civil status amendments made to take account of their appearance, external morphology, psychology and social behaviour ;

9. Considering the case-law of the European Commission and Court of Human Rights ;

10. Referring to the resolution which the European Parliament adopted on 12 September 1989, in which, among other things, it called on the Council of Europe to enact a convention for the protection of transsexuals,

11. Recommends that the Committee of Ministers draw up a recommendation inviting member states to introduce legislation whereby, in the case of irreversible transsexualism :

a. the reference to the sex of the person concerned is to be rectified in the register of births and in the identity papers ;

b. a change of forename is to be authorised ;

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1. Assembly debate on 29 September 1989 (21st Sitting) (see Doc. 6100, report of the Legal Affairs Committee, Rapporteur : Mr Rodotà). Text adopted by the Assembly on 29 September 1989 (21st Sitting).

c. the person's private life is to be protected ;

d. all discrimination in the enjoyment of fundamental rights and freedoms is prohibited in accordance with Article 14 of the European Convention on Human Rights.