Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 2048 (2015)[1]

Discrimination against transgender people in Europe

Parliamentary Assembly

1. The Parliamentary Assembly regrets that transgender people face widespread discrimination in Europe. This takes a variety of forms, including difficulties in access to work, housing and health services, and transgender people are frequently targeted by hate speech, hate crime, bullying and physical and psychological violence. Transgender people are also at particular risk of multiple discrimination. The fact that the situation of transgender people is considered as a disease by international diagnosis manuals is disrespectful of their human dignity and an additional obstacle to social inclusion.

2. Awareness of the situation of transgender people is largely insufficient among the general public and accurate, unbiased information in the media is scarce. This leads to higher levels of prejudice and hostility which could be avoided.

3. The Assembly is concerned about the violations of fundamental rights, notably the right to private life and to physical integrity, faced by transgender people when applying for legal gender recognition; relevant procedures often require sterilisation, divorce, a diagnosis of mental illness, surgical interventions and other medical treatments as preconditions. In addition, administrative burdens and additional requirements, such as a period of "life experience" in the gender of choice, make recognition procedures generally cumbersome. Furthermore, a large number of European countries have no provisions on gender recognition at all, making it impossible for transgender people to change the name and gender marker on personal identity documents and public registers.

4. A number of Council of Europe member States have recently reformed their legislation on legal gender recognition or are in the process of doing so. Some regulations are based on the principle of self-determination and do not require long and complex procedures or the involvement of medical practitioners or psychiatrists.

5. The Assembly welcomes, in this context, the emergence of a right to gender identity, first enshrined in the legislation of Malta, which gives every individual the right to recognition of their gender identity and the right to be treated and identified according to this identity.

6. In the light of these considerations, the Assembly calls on member States to:

6.1. as concerns anti-discrimination legislation and policies:

6.1.1. explicitly prohibit discrimination based on gender identity in national non-discrimination legislation and include the human rights situation of transgender people in the mandate of national human rights institutions, with an explicit reference to gender identity;

6.1.2. implement international human rights standards, including the case law of the European Court of Human Rights in this field, without discrimination on grounds of gender identity;

1. *Assembly debate* on 22 April 2015 (15th Sitting) (see Doc. 13742, report of the Committee on Equality and Non-Discrimination, rapporteur: Ms Deborah Schembri). *Text adopted by the Assembly* on 22 April 2015 (15th Sitting).

6.1.3. collect and analyse information and data on the human rights situation of transgender people, including discrimination on grounds of gender identity and multiple discrimination, as well as transphobic intolerance and hate crimes; these data are necessary for the design and implementation of anti-discrimination legislation and policies and for the monitoring of their impact;

6.1.4. enact hate crime legislation which affords specific protection for transgender people against transphobic crimes and incidents; provide specific training to sensitise law-enforcement officials and members of the judiciary;

6.1.5. provide effective protection against discrimination on grounds of gender identity in access to employment in the public and private sectors and in access to housing, justice and health care;

6.1.6. involve and consult transgender people and their organisations when drafting and implementing policy and legal measures which concern them;

6.2. as concerns legal gender recognition:

6.2.1. develop quick, transparent and accessible procedures, based on self-determination, for changing the name and registered sex of transgender people on birth certificates, identity cards, passports, educational certificates and other similar documents; make these procedures available for all people who seek to use them, irrespective of age, medical status, financial situation or police record;

6.2.2. abolish sterilisation and other compulsory medical treatment, as well as a mental health diagnosis, as a necessary legal requirement to recognise a person's gender identity in laws regulating the procedure for changing a name and registered gender;

6.2.3. remove any restrictions on the right of transgender people to remain in an existing marriage upon recognition of their gender; ensure that spouses or children do not lose certain rights;

6.2.4. consider including a third gender option in identity documents for those who seek it;

6.2.5. ensure that the best interests of the child are a primary consideration in all decisions concerning children;

6.3. as concerns gender reassignment treatment and health care:

6.3.1. make gender reassignment procedures, such as hormone treatment, surgery and psychological support, accessible for transgender people, and ensure that they are reimbursed by public health insurance schemes; limitations to cost coverage must be lawful, objective and proportionate;

6.3.2. include transgender people explicitly in suicide prevention research, plans and measures; explore alternative trans health-care models, based on informed consent;

6.3.3. amend classifications of diseases used at national level and advocate the modification of international classifications, making sure that transgender people, including children, are not labelled as mentally ill, while ensuring stigma-free access to necessary medical treatment;

6.4. as concerns information, awareness raising and training:

6.4.1. address the human rights of transgender people and discrimination based on gender identity through human rights education and training programmes, as well as awareness-raising campaigns aimed at the general public;

6.4.2. provide information and training to education professionals, law-enforcement officers and health-service professionals, including psychologists, psychiatrists and general practitioners, with regard to the rights and specific needs of transgender people, with a special focus on the requirement to respect their privacy and dignity.