Categories & Criteria Trans Rights Index 2018

Legal gender recognition

Existence of procedures:

Requirements:

Existence of legal measures covers legislation for legal gender recognition. This can include court decisions, as long as there is a procedure that provides consistent results.

Name change:

Requirements:

Name change covers existence of legislation which makes name change possible. This includes deed poll

Change of gender on official documents to match gender identity:

Requirements:

Change of gender on official documents to match gender identity covers existence of legislation which make change of gender marker on official documents name change possible. This can include court decisions or clearly established administrative procedures, as long as there is a procedure that provides consistent results

[new] Self-determination:

Requirements:

A point is awarded if all of the following criteria are met:

- LGR is based exclusively on the expressed wish of the person concerned e.g. by declaration
- Does not require third party involvement, e.g. judge, medical expert, intercessor
- Intersex status and/ or sex characteristics are not a contraindication

No 'Gender Identity Disorder' diagnosis/psychological opinion required: covers when a GID diagnosis is not a requirement for legal gender recognition.

No compulsory medical intervention required: covers when medical interventions, including surgeries are not a requirement for legal gender recognition.

No compulsory sterilisation required: covers when sterilisation or proof of infertility is not a requirement for legal gender recognition.

No compulsory divorce required: covers when divorce or single status is not a requirement for legal gender recognition

No age restrictions (available for minors): covers when there is no explicit age restriction for minors for changing

their legal gender. This criterion only applies when there are no other abusive requirements for legal gender recognition such as sterilisation, GID/medical diagnosis, or surgical/medical intervention.

[new] Gender non-binary recognition:

Requirements:

A full point is awarded if:

- More than two gender marker options (“X”, “NB”, “other”, or other option(s)) are available in the public registry (e.g. Register of Births, etc.); half a point if more than two gender marker options (such as “X”) are available in passport only.
- Available for those who seek it (not forced);

OR

No mandatory recording of gender marker in the public registry (ability to opt out from recording of gender marker available to all, not only trans/intersex people);

Asylum

Asylum Law: covers when gender identity is expressly included in asylum law as a qualification criterion.

Asylum Policy/other positive measures: covers when gender identity is expressly included in policy/instructions/other positive measures. This only refers to actions based on a recurrent and continuing framework by state actors (ad hoc measures do not count)

– Examples of a policy/instruction/other positive measure:

? Existence of specific measures in a general national LGBTI equality action plan

? Existence of a sectorial action plan in the area of asylum

Bias-motivated speech/ violence

Hate crime law: covers when bias based on the victim’s (perceived) gender identity is expressly included in hate crime legislation as an aggravating factor.

Hate speech law: covers when gender identity is expressly included in hate speech legislation as an aggravating factor.

Policy tackling hatred: covers when gender identity is included in a national strategy tackling hatred. This only refers to actions based on a recurrent and continuing framework by state actors (ad hoc measures do not count).

– Examples of a national strategy tackling hatred:

- Existence of specific measures addressing hatred in a general national LGBT equality action plan
- Existence of a specific sectorial action plan in the area of hate crime/hate speech covering LGBTI
- Existence of generalised training curricula for competent professionals (e.g. police officers, prosecutors, victim support services, judges)
- Existence of specialised dedicated structure(s) within the competent public authorities, with an expertise in

the area of LGBTI hate crime/hate speech

Non-discrimination

Employment: covers employment anti-discrimination legislation. Express mention of gender identity only should be counted. Equivalent ground e.g. sexual identity, gender reassignment, etc. accepted too.

Goods & services: cover goods and services anti-discrimination legislation. Express mention of gender identity only should be counted. Equivalent grounds (sexual identity, gender reassignment, etc.) are accepted too.

Other spheres of life: covers legislation prohibiting discrimination in other areas of life, such as education or health etc.

Equality body mandate: covers when a national human rights institution / equality body is explicitly mandated to work on gender identity in its law/founding documents, or where the national human rights institution / equality body is systematically working on issues covering gender identity. Equivalent grounds (sexual identity, gender reassignment, etc.) are accepted too

Equality action plan: covers action plans, which expressly include gender identity, and include specific measures for progress. Equivalent grounds (sexual identity, gender reassignment, etc.) accepted too. In addition, we only take into account when the action plan either entails or is followed up with the following measures:

- Detailed projects or initiatives within the time span
- Allocation of resources (financial or human resources)
- Clear responsibilities for proper implementation
- Setup of monitoring procedure

Law (gender expression): covers anti-discrimination legislation, which expressly includes gender expression

[new section]

Health

[new] Healthcare: covers legislation prohibiting discrimination in the field of health. Express mention of gender identity only should be counted. Equivalent grounds (sexual identity, gender reassignment, etc) are accepted too.

[new] Depathologisation:

Requirements:

A point is awarded if all of the following criteria are met:

- No mental health diagnosis relating to trans identities in national clinical classification standards or equivalent; neither for adults/ adolescents nor for pre-puberty children
- Access to and cost coverage for trans-specific healthcare (TSHC) for adults/ adolescents is possible without requiring a mental health assessment or diagnosis.
- Access to and cost coverage for support services for pre-puberty trans and gender variant children is ensured without requesting a diagnosis of “Gender Incongruence in Childhood” (ICD11) or equivalent.

Conversion therapy prohibited: covers legislation and policies prohibiting reparative or conversion therapy which is based upon the assumption that trans identities are per se a mental disorder and can be treated.

Family rights

[new] Parenthood Recognition

Requirements:

A point is awarded if the following criteria are met:

- Parent's legal gender identity is recognized in the documentation of kinship (e.g. birth certificate of child respects name, gender marker, gendered denomination "mother"/ "father" (where applicable) according to the parent's recognised gender identity)
- Regulations regarding recognition of parenthood is aligned with available gender options where more than 2 gender markers are available, e.g. "mother" and "father" are not the only available options; all parents are recorded as "parent" etc.