New Factsheets on Legal Gender Recognition in the EU

publication, legal gender recognition

TGEU presents five factsheets on Legal Gender Recognition in the European Union.

The factsheets highlight key findings from a study commissioned by the EU Commission on the lived experiences of trans people and legal gender recognition procedures in the EU. The resource will hopefully make this information more accessible to trans activists and allies as well as support advocates' work in increasing access to Legal Gender Recognition in the Member States.

Many trans people living in the EU today experience direct and indirect discrimination based on their gender identity. This discrimination exists in the labour market, in access to health and social services, in schools and universities (FRA, 2014; FRA, 2019). It prevents the full and equal social and economic participation of trans people and impedes them from enjoying full rights. In addition, trans people may face day-to-day transphobia, harassment, and abuse. The gender identity of trans individuals is not always reflected in their legal and administrative documents, nor respected by the wider public.

The EU study explores the position and experiences of trans people with regard to a) education, employment, and later life; b) experiences of coming out; c) interactions with and impact of Legal Gender Recognition (LGR) procedures; d) impact of discrimination that trans individuals can face throughout their lifetime.

Most notably, the study identifies patterns among EU Member States that have similar LGR procedures and puts member States in 'legal clusters,' making comparison easier.

We hope that these factsheets will be used as a resource by local and national organisations and inspire further advocacy strategies.

Factsheet 1: Legal gender recognition requirements

- Overview on countries with barriers to Legal Gender Recognition
- Overview on countries with self-determination

tgeu
TRANS EUROPE AND CENTRAL ASIA

LEGAL GENDER RECOGNITION REQUIREMENTS

BASED ON THE EUROPEAN COMMISSION'S "LEGAL GENDER RECOGNITION IN THE EU" REPORT (2020)

1 FACTSHEET

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THIS FACTSHEET WAS PREPARED BY TGEU WITH EXCERPTS FROM CHAPTER 6 OF THE EUROPEAN COMMISSION'S "LEGAL GENDER RECOGNITION IN THE EU: THE JOURNEYS OF TRANS PEOPLE TOWARDS FULL EQUALITY" REPORT (2020).

LEGAL GENDER RECOGNITION IS THE PROCESS(ES) BY WHICH INDIVIDUALS REQUEST THEIR FIRST NAME AND/OR GENDER MARKER TO BE CHANGED IN THEIR ADMINISTRATIVE RECORDS SO THAT OFFICIAL REGISTERS AND THEIR DOCUMENTS, INCLUDING IDENTITY DOCUMENTS AND BIRTH OR CIVIL STATUS CERTIFICATES, MATCH THEIR GENDER IDENTITY. IN SHORT, WE REFER TO LEGAL GENDER RECOGNITION AS LGR.

I. LGR FRAMEWORKS WHICH SEE TRANS PEOPLE AS NEEDING TO BE 'TESTED' ON THEIR COMMITMENT TO THEIR GENDER IDENTITY

CLUSTER 1: NO LGR PROCEDURES IN PLACE

BULGARIA
CYPRUS
LITHUANIA
LATVIA
ROMANIA

LGR may be possible, but in lack of legislation in place, the procedures are done by the courts. The process is long and applications are evaluated on a case-by-case basis, with a wide margin of discretion for judges.

No same-gender marriage in place, so existing marriages may become null and void after LGR.

CLUSTER 2: INTRUSIVE MEDICAL REQUIREMENTS

SLOVAKIA
CZECHIA
POLAND
FINLAND
AUSTRIA
ESTONIA
SPAIN
ITALY
UK

LGR is only possible if one meets intrusive medical requirements, such as gender-affirming surgery, sterilisation, medical tests, or gender-affirming hormone therapy, sometimes in combination with a mental health diagnosis.

CLUSTER 3: MENTAL HEALTH DIAGNOSIS REQUIREMENT

SLOVENIA
GERMANY
CROATIA
HUNGARY
SWEDEN
NETHERLANDS

LGR is only possible if one acquires a mental health diagnosis of 'gender dysphoria' or similar, or testimonies or opinions of a psychiatrist, psychologist and other medical professionals such as endocrinologist, or other forms of medical or psychological supervision.

CLUSTER 4: PROCEDURAL REQUIREMENTS

GREECE
FRANCE

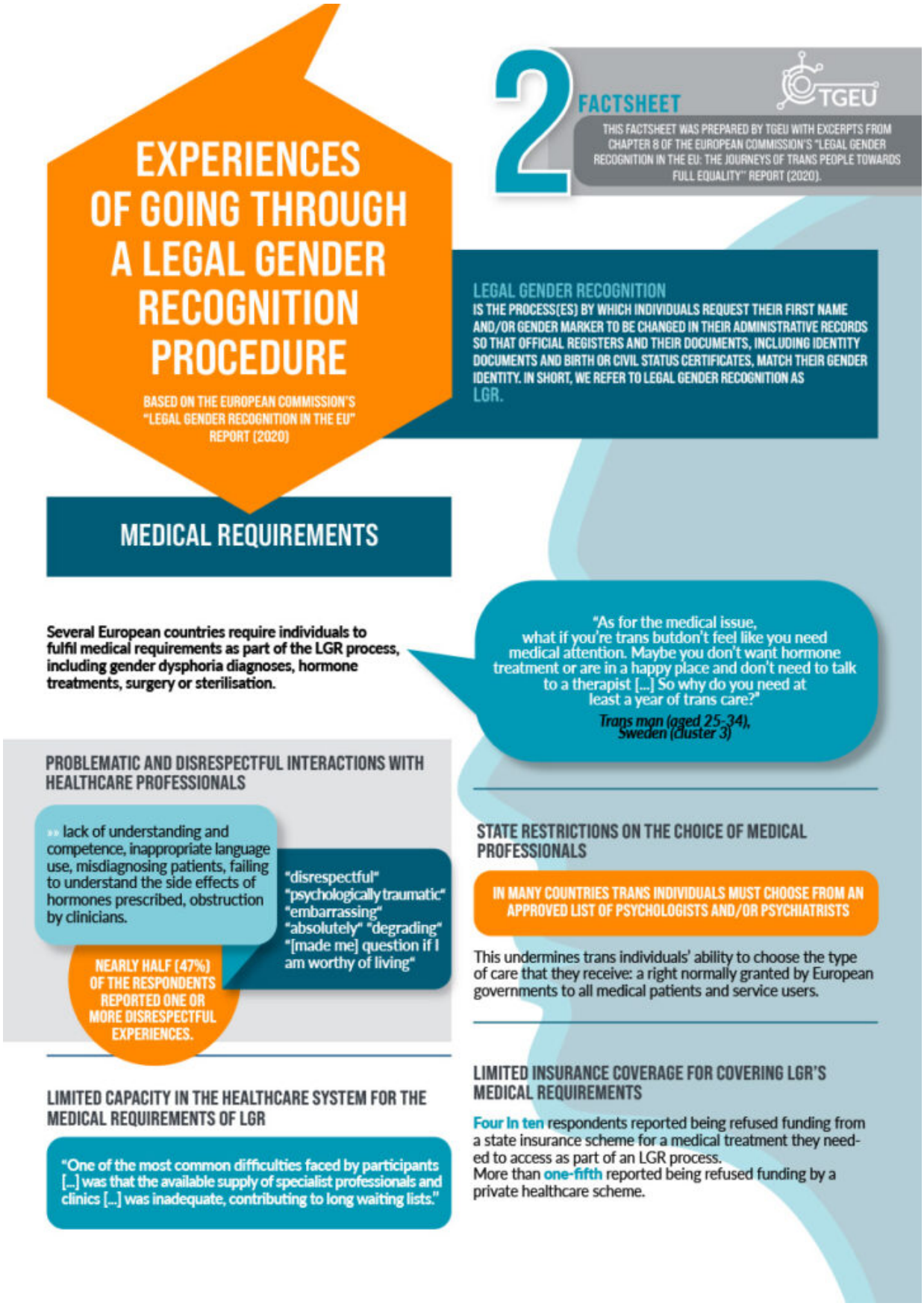
LGR does not have medical requirements, but there is a judicial or administrative procedure in place. In lack of legislation, the processes are often unreasonably lengthy, costly and opaque in their decision-making.

[1] The five clusters in the European Commission's report were defined in 2019. Already then, trans people from Hungary reported that it was already impossible to obtain LGR. In 2020, Hungary banned legal gender recognition altogether and thus neither longer falls under cluster 3 nor complies with international human rights standards.

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Factsheet 2: Experiences of going through a Legal Gender Recognition Procedure

- Medical Requirements
- Administrative and Civil Requirements
- Costs


2
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EXPERIENCES OF GOING THROUGH A LEGAL GENDER RECOGNITION PROCEDURE
BASED ON THE EUROPEAN COMMISSION'S "LEGAL GENDER RECOGNITION IN THE EU" REPORT (2020)
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MEDICAL REQUIREMENTS
Several European countries require individuals to fulfil medical requirements as part of the LGR process, including gender dysphoria diagnoses, hormone treatments, surgery or sterilisation.
"As for the medical issue, what if you're trans butdon't feel like you need medical attention. Maybe you don't want hormone treatment or are in a happy place and don't need to talk to a therapist [...] So why do you need at least a year of trans care?"
Trans man (aged 25-34), Sweden (cluster 3)
PROBLEMATIC AND DISRESPECTFUL INTERACTIONS WITH HEALTHCARE PROFESSIONALS
» lack of understanding and competence, inappropriate language use, misdiagnosing patients, failing to understand the side effects of hormones prescribed, obstruction by clinicians.
"disrespectful" "psychologically traumatic" "embarrassing" "absolutely" "degrading" "[made me] question if I am worthy of living"
NEARLY HALF (47%) OF THE RESPONDENTS REPORTED ONE OR MORE DISRESPECTFUL EXPERIENCES.
LIMITED CAPACITY IN THE HEALTHCARE SYSTEM FOR THE MEDICAL REQUIREMENTS OF LGR
"One of the most common difficulties faced by participants [...] was that the available supply of specialist professionals and clinics [...] was inadequate, contributing to long waiting lists."
STATE RESTRICTIONS ON THE CHOICE OF MEDICAL PROFESSIONALS
IN MANY COUNTRIES TRANS INDIVIDUALS MUST CHOOSE FROM AN APPROVED LIST OF PSYCHOLOGISTS AND/OR PSYCHIATRISTS
This undermines trans individuals' ability to choose the type of care that they receive: a right normally granted by European governments to all medical patients and service users.
LIMITED INSURANCE COVERAGE FOR COVERING LGR'S MEDICAL REQUIREMENTS
Four in ten respondents reported being refused funding from a state insurance scheme for a medical treatment they needed to access as part of an LGR process.
More than one-fifth reported being refused funding by a private healthcare scheme.

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Factsheet 3: Motivations and Reasons for (not) Using LGR Procedures

- Why trans persons use legal gender recognition procedures
- Reasons blocking trans persons from using legal gender recognition

MOTIVATIONS AND REASONS FOR (NOT) USING LGR PROCEDURES

BASED ON THE EUROPEAN COMMISSION'S "LEGAL GENDER RECOGNITION IN THE EU" REPORT (2020)

3 FACTSHEET

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REASONS FOR USING LGR PROCEDURES

- overcoming ID problems/avoiding being outed
- legal protection or sense of security
- accessing medical or administrative services (e.g. name change)
- recognition of self
- avoiding misgendering
- relieving psychological burden.

Not all trans people want to go through LGR. But mong trans people who have not used LGR procedures,

- nearly 60% of trans women
- nearly 60% of trans men
- 17% of non-binary people
- 13% of cross-dressers

....would like to go through lgr in future.

"I don't feel like I'm able to stand up in the court and explain that I feel like myself, a man. And it's not a choice, like what socks do I want to wear today, but just my life. I'm afraid that the judge will not be supportive [...] I'm not ready to go and listen - not in a normal conversation but in court - that I'm lying and should stay normal."
Trans man, aged 18-24, residing in Poland (cluster 2)

....they were considering **moving to another country** where LGR procedures are more simple.
....they were **unable to afford** it.

REASONS FOR NOT USING LGR PROCEDURES

The EC study organised interviews and focus group discussions to learn more about why some trans people do not want to have their legal gender changed.

Some trans people who have not yet gone through an LGR process said...

....they found the procedure too **complicated**, **intimidating**, or **unclear**.
....they were **struggling to access** medical professionals to fulfil LGR requirements..

"[The LGR procedure in my country of residence] requires hormone treatment, which is difficult and expensive. I live in a big city but would need to commute 100 km to the nearest competent sexologist."
Trans man, aged 18-24, residing in Poland (cluster 2)

....they were worried about the emotional **toll** of a process where their lives could be decided by judges and external experts.
....they could not access LGR because they were **migrants, asylum seekers, or refugees**.

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Factsheet 4: Legal Gender Recognition Impacts

- Benefits legal gender recognition has
- Negative impacts faulty legal gender recognition procedures can have
- Negative impacts of no legal gender recognition

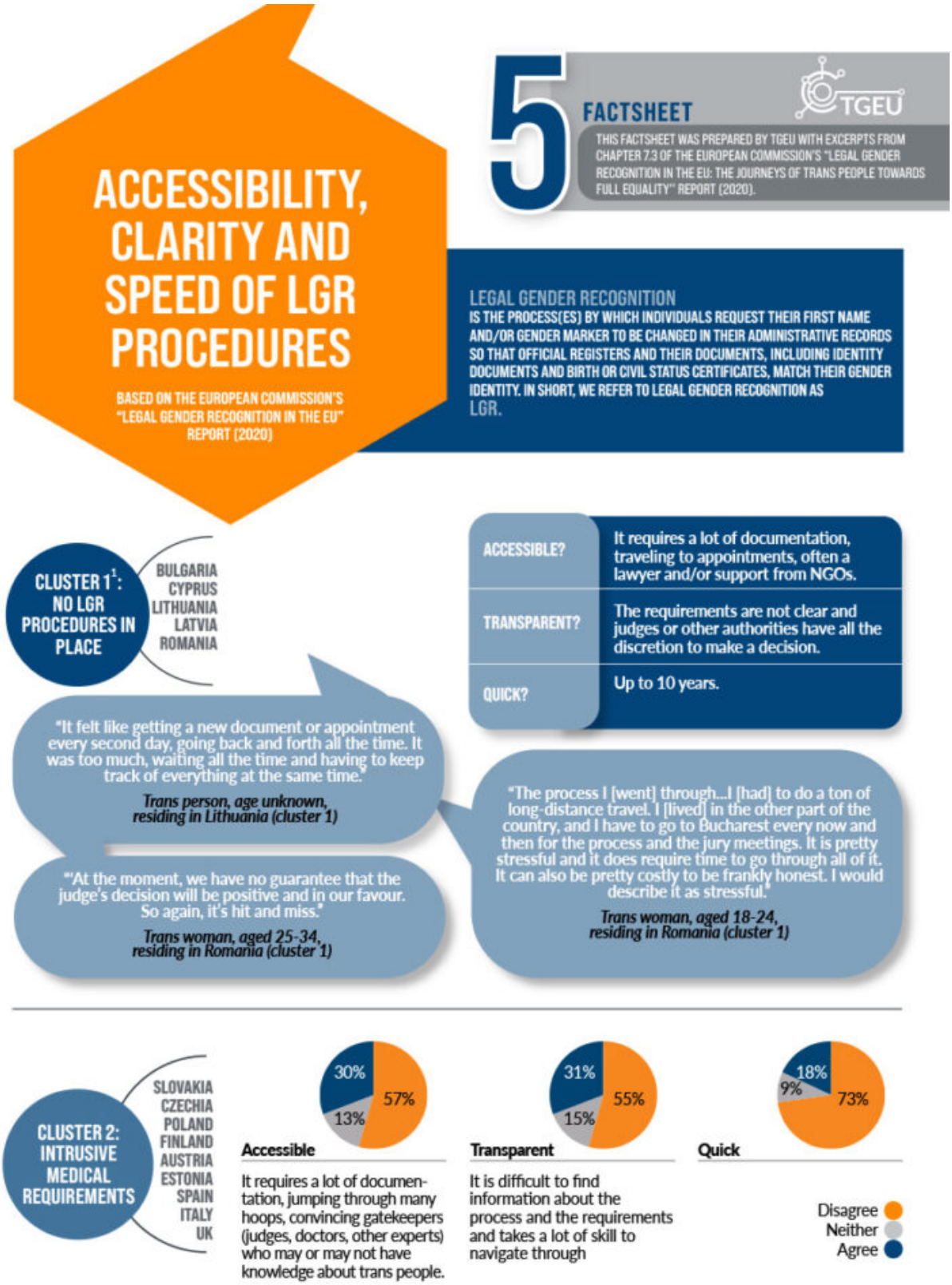

4
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LEGAL GENDER RECOGNITION IMPACTS
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POSITIVE IMPACTS OF LEGAL GENDER RECOGNITION
"From the moment of this change, I started to live better. For me, everything changed."
Trans woman (aged 45-54) living in France (cluster 4)
TRANS PEOPLE WHO HAVE OBTAINED LEGAL GENDER RECOGNITION SHARED...
...they felt relief, happiness and felt validated
"When I changed my name... I couldn't get over the fact that having a piece of paper with the right gender in my hand was just like, so elevating! I look at it each day when I come home."
Transgender person, age unknown, living in Ireland (cluster 5)
... they felt better able or safer to access higher education and focus on school
... they could access healthcare services, goods and services, insurance, housing, marriage or civil partnership, or parental custody
... they felt more accepted in daily life, amongst family members, friends, and in wider society. LGR helped with
...friends and relatives understanding and accepting their identity, and using the correct name
...family not misgendering them
...feeling free to be themselves
...feeling that they 'fit' in their family
...not hiding their identity at home
...gaining friends or strengthening existing friendships.
...they felt greater ease and reduced stress in day-to-day life (traveling, going to the bank, etc.)
"I do not have to justify myself or get anxious in the moments of my daily life where it is necessary to prove my identity."
Trans man, aged 18-24, residing in France (cluster 4)
"LGR helped with my family. It was "the click" for [them]. They live in the countryside; the mentality is not the same as in big cities. The fact that there is an official recognition from the state helps with family, social and professional inclusion."
Trans woman, aged 55-64, residing in France (cluster 4)*
...they felt empowered, had more self-confidence and self-esteem
...they had reduced symptoms of depression, anxiety, stress, psychological distress, dysphoria
...they felt safer
...they were finally able to access the job market and improve their financial situation
"Being officially recognised as my true gender allows me to meet potential employers in my comfortable gender expression without my original birth name "outing" me, bringing a whole host of issues with it."
Trans woman, aged 25-34, residing in Hungary (cluster 3)

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Factsheet 5: Accessibility, Clarity and Speed of LGR Procedures

This factsheet covers how accessible, transparent, and quick legal gender recognition procedures are in different groups of countries.
Clusters:

- No legal gender recognition procedures in place
- Intrusive medical requirements
- Mental health diagnosis requirement
- Procedural requirements
- Self-determination



[1] To learn more about the specifics of each cluster, please see the Factsheet 1 on Legal gender requirements here.

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