TGEU, IGLYO, ILGA Europe and OII Europe's comments to the Law Proposal No. 486/XVII/1

04 November 2026

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Summary

Bill 486/XVII/1 would repeal the Self-Determination Act Law No.38/2018 of 7 August and call to reinstate the regime previously provided for in Law No.7/2011 of 15 March, with certain adjustments, effectively bringing back a system of medicalisation and clinical gatekeeping under which legal gender recognition (LGR) is dependent on a diagnosis of 'gender incongruence or gender dysphoria'. The Bill also proposes to remove the 2018 Self-Determination Act's sector-specific provisions, such as the protective measures in the areas of education and health, offers no improvement regarding the protection of intersex children, and weakens non-discrimination protections. Bill 486/XVI/1 replaces them with a short anti-discrimination article (new Article 1-A) and a general health-access article (new Article 4-C).

The Self-Determination Act of 2018 is clearly superior to Law 7/2011 from a human rights perspective, and the Bill does not meet the standard of justification, so it would amount to a prohibited regression. We argue that this repeal is unnecessary and conflicts directly with Portugal's international obligations under the European Convention on Human Rights (ECHR), EU law, the UN Convention on the Rights of the Child (CRC) and the Council of Europe's Committee of Ministers Recommendation on equal rights for intersex persons.

We ask Parliament to withdraw the Bill or vote against it in its entirety and, should it proceed, to hear trans and intersex young people, whilst fully ensuring that those young people's wellbeing and safety is guaranteed, and carry out a child rights impact assessment first.

About the submitting organisations

TGEU (Trans Europe and Central Asia) is an umbrella organisation of more than 200 member organisations representing trans people in Europe and Central Asia. IGLYO is the International LGBTQI Youth and Student Organisation, a network of around 150 member organisations working with LGBTQI young people and students across Europe. OII Europe is the European umbrella organisation of intersex-led organisations in Europe, Central Asia and the Maghreb region, with over 20 member organisations from 20 Member States across Europe. ILGA Europe is an independent international NGO bringing together over 700 member organisations across Europe and Central Asia to advance the human rights and equality of LGBTI people.

Remark on language versions: Due to limited time, the submitting organisations used English machine translations (DeepL) of the Bill; any inaccuracies are theirs.

General Observations

Law Proposal No. 486/XVII/1 (hereafter 'the Bill') proposes to repeal Law 38/2018 (hereafter 'the Self-Determination Act') and reinstate the procedure for LGR for adults under Law 7/2011, based on a mental health diagnosis by a multidisciplinary team of 'gender incongruence or gender dysphoria', as well as a procedure for intersex minors from age 16. The Bill moves Portugal away from legal capacity, self-determination and civil freedoms, and back towards medicalisation, pathologisation and paternalism.

The Self-Determination Act has proven a vital tool against discrimination of trans, non-binary and intersex people in schools, education and the labour market while remaining free of

fraud and abuse. According to official data, in the period 2018 - 2022, 1,595 persons used the procedure under the current Self-Determination Act to change their gender marker, more than three times the 523 changes in 2011-2017.[1] The competent authority, the CIG, reported in 2022 and in 2026 that it had no information about refusals, applications made with fraudulent or criminal intent, or repeat applications to return to a previous marker.[2] Elsewhere it is the same: according to TGEU's study, twelve European countries have adopted self-determination acts, some for over ten years, and none have repealed it. In Germany, around 30,000 applications in two and a half years stand against two known cases of misuse, which the courts halted, and official bodies in several countries, Portugal among them, report no abuse or negative effects on others.[3]

In the explanatory memorandum that accompanies the Bill, frequent references are made to the fact that this Bill has come forward due to the need to ensure that legal gender recognition takes place within a 'robust institutional framework, based on clear technical criteria and appropriate clinical monitoring mechanisms'. The submitting organisations wish to underline that the current Self Determination Act already provides robust safeguards in ensuring that minors aged between the ages of 16-17 first meet the necessary legal and safeguarding thresholds to access LGR. In Article 7, the Act stipulates that LGR for minors aged 16-17 is accessible, through their legal representative, and requires a face-to-face hearing, where a report, requested by the minor, from any doctor registered with the Order of Physicians or psychologist registered with the Order of Psychologists, must certify that their express, free and informed consent is given, that their decision-making capacity is assessed as sufficient, and that the principles of progressive autonomy and the best interests of the child contained in the Convention on the Rights of the Child, are met and upheld.

Furthermore, references in the explanatory memorandum accompanying the Bill repeatedly point to alleged new scientific developments and evolutions in the scientific debate which underpin the necessity of the proposed changes. As already pointed out in the hearing of 25 September, the lack of scientific research stems in part from chronic underfunding of specialised healthcare provision for trans and gender diverse minors. Limited capacity in specialised children's services can restrict access to research and treatment.[4] A dearth of

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[1] CIG, Procedimentos de mudança da menção do sexo no registo civil 2011 - 2022 (n.°), available at: https://www.cig.gov.pt/area-igualdade-entre-mulheres-e-homens/indicadores-2022/lgbti/

[2] For 2022 data see Richard Köhler (2022) Self-determination models in Europe: Practical experiences. TGEU, available at: https://shorturl.at/qbelv; for 2026 data: on email record with TGEU

[3] Köhler (2022), cited above; TGEU, speaking notes for the public parliamentary hearing on Bills 391/XVII/1, 486/XVII/1 and 479/XVII/1, 25 September 2026.

[4] See for example the PATHWAYS trial: official eligibility criteria by the National Institute for Health and Care Research (NIHR), UK. The published criteria require participants to be attending an NHS gender service, to have a diagnosis of gender incongruence, to be in a specified stage of puberty and to be younger than 15 years and 11 months. Young people who have already received puberty-suppressing or gender-affirming hormones are excluded. These criteria demonstrate that access through the trial is not available to every child who might seek or benefit from puberty suppression. In particular, the age, pubertal-stage and previous-treatment criteria create a defined eligibility boundary.

quality-research should result in more and better funded research, not in less services for young people.[5]

Restrictions of fundamental rights must be necessary and proportionate: the Portuguese Constitution allows them only as far as needed to safeguard other protected rights or interests (rights such as personal identity, Article 26, included), and Article 8(2) ECHR requires a pressing social need.[6] **The named bases for restriction in the Bill, namely also due to so-called 'latest scientific developments' are conceptual, hypothetical or foreign problems and are thinly sourced on Portuguese practice. Without a demonstrated need there is no necessity for this proposed change, and we therefore propose to withdraw or vote against the Bill in its entirety.**

The Bill would also represent a considerable loss of acquired protection. Under international human rights law, rights once granted may be rolled back only by measures fully justified after careful consideration of all alternatives. The Self-Determination Act is clearly superior to Law 7/2011 from a human rights perspective, and the Bill does not meet the standard of justification, so it would amount to a prohibited regression.

The Bill is also silent on pending applications and on registry changes already made under Law 38/2018, including those of 16 and 17 year olds. Legal certainty is a core element of the rule of law, and laws restricting rights, freedoms and guarantees may not have retroactive effect.[7] Article 4-B only preserves acquired rights for changes made 'under the terms of this Law', which leaves open whether earlier entries stay valid.[8] An express transitional provision is indispensable.

On 'gender incongruence and gender dysphoria'

The Bill uses throughout the terms 'gender incongruence and gender dysphoria', which are outdated and misleading as legal and medical terms. The WHO's International Classification of Diseases - version 11 (ICD-11), in force since 2022, has moved 'gender incongruence' out of the chapter on mental disorders into one on conditions related to sexual health, to remove the stigma of a mental disorder while keeping access to healthcare intact.[9] That diagnosis exists solely to enable access to care for those who need it and was never designed as a criterion for LGR. Portugal supported ICD-11's adoption at the World Health Assembly.[10]

The Bill not only carries over the 2011-era conflation of identity and pathology, using "incongruence" as explained above, adopts the use of the term 'gender dysphoria' as if they were interchangeable eligibility criteria, despite the fact that the term 'gender dysphoria' is not used in the ICD-11. Moreover, the legal pathway to a gender marker change should be open to those who need it without having to accept a narrow and pathologising diagnosis.

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[5] Taylor et al. (2024), Interventions to suppress puberty in adolescents experiencing gender dysphoria or incongruence: a systematic review, https://adc.bmj.com/content/109/Suppl_2/s33
[6] Constitution of the Portuguese Republic, Articles 18(2) and 26; ECHR, Article 8(2).
[7] Constitution of the Portuguese Republic, Articles 2 and 18(3).
[8] GDPR, Articles 5(1)(d) and 16; CJEU, Case C-247/23, Deldits, 13 March 2025.
[9] WHO, ICD-11, codes HA60 and HA61 (gender incongruence), in force since 1 January 2022; ICD-10, code F64.0.
[10] 72nd World Health Assembly (May 2019).

The required presence of discomfort should precisely not be required any more in an administrative, non-medical act. Also, trans persons who do not meet the threshold of bodily discomfort can and should be able to benefit from accessing the procedure.

We respectfully submit to use ‘trans people’, ‘intersex people’ and ‘gender identity’ instead.

Trans people are persons whose gender identity differs from the sex assigned at birth, and **gender identity** is each person’s deeply felt internal and individual experience of gender, which may or may not correspond to it.[11]

Intersex persons are persons born with a variation of sex characteristics. This means that they are born with sex characteristics that do not fit societal or medical norms of typical male or female bodies. Variations of sex characteristics are sometimes identifiable at birth, they may also become apparent later in life, particularly during puberty but even in adulthood. Although most variations do not pose risks to the life, health and/or physical wellbeing of the person, they are still often misconceived as “psychosocial and social/medical emergencies” and bodies that need to be fixed by medical, including surgical means[12].

Article 2: Repeal of Law No.38/2018 of 7 August

Article 2 of The Bill proposes to repeal Law No.38/2018 of 7 August, which enshrines the right to self-determination of gender identity and gender expression and to the protection of each person’s sex characteristics.

The article also limits the LGR to adults and would end access for 16 and 17 year olds, who today apply with their legal representatives, a personal hearing and a medical or psychological report on their capacity to consent. Under the current procedure there are already considerable safeguards in place. The Convention on the Rights of the Child (CRC) requires that the child’s best interests are a primary consideration, that their views are given due weight according to age and maturity, and that their evolving capacities are respected, which according to the CRC Committee calls for capacity-based assessment rather than fixed age limits.[13]

The Council of Europe Commissioner for Human Rights likewise recommends access for minors, ideally without arbitrary age limits.[14] ‘Waiting until 18’ means repeated forced disclosure at school, in exams, when travelling and in first jobs, where nearly 75% of LGBTQI respondents in Portugal report bullying, ridicule, insults or threats at school.[15] Nearly

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[11] Yogyakarta Principles plus 10 (2017), preamble; see also Principles 31 and 32.
[12] OII Europe speaking notes for the public parliamentary hearing on Bills 391/XVII/1, 486/XVII/1 and 479/XVII/1, 25 September 2026.
[13] CRC, Articles 3, 5 and 12; CRC Committee, General Comments No. 12 (2009) and No. 20 (2016).
[14] Council of Europe Commissioner for Human Rights (Dunja Mijatović), Issue Paper ‘Human Rights and Gender Identity and Expression’ (March 2024), key recommendations: https://rm.coe.int/issue-paper-on-human-rights-and-gender-identity-and-expression-by-dunj/1680aed541. See also Council of Europe, Thematic Report on Legal Gender Recognition in Europe (2022).
[15] FRA, EU LGBTIQ Survey III (2024), country data for Portugal.

75% of trans respondents in an EU-wide survey knew their gender identity before 18.[16] Other countries offer pathways for minors: Germany scales parental involvement to the child's maturity, and Denmark, which first limited self-determination to over 18 year olds, has since given access to trans minors over concerns that its strict age limit would violate the European Convention protection from age-discrimination.[17]

On Article 4: Amendment to Articles 2 and 3§1(b) Procedure

Under the Bill, Article 2 of Law 7/2011 would be re-enacted, so only an applicant of legal age, with a diagnosis of 'gender incongruence or gender dysphoria' could apply. The Bill amends Article 3(1)(b) to require a diagnosis of 'gender incongruence or gender dysphoria'. Whilst not explicitly cited in the Bill, this would need to be carried out in accordance with Article 79 of the Code of Ethics of the Portuguese Medical Association. Article 79 requires 1.) diagnosis by a multidisciplinary team (psychiatrist, sexologist, endocrinologist), 2.) corroboration by a second team, and 3.) continuous psychological monitoring for at least two years 'from the establishment of the diagnosis to the post-surgical phase'. Without specification, all three items become prerequisites. Without further specification the Bill thus re-introduces not only a mental health requirement but also proof of surgery as otherwise the third requirement ('post-surgical') cannot be met.

This re-medicalisation raises serious problems under international human rights law. The Parliamentary Assembly of the Council of Europe has called for quick, transparent and accessible procedures based on self-determination and the abolition of sterilisation, compulsory treatment and a mental health diagnosis as requirements,[18] as has the Council of Europe Commissioner for Human Rights, who also asks for trans-specific healthcare without a mental health diagnosis.[19]

The Bill is not compliant with the EU Charter of Fundamental Rights provisions as interpreted by the CJEU. The jurisprudence establishes that gender identity is a core aspect of private life protected under Charter Article 7, that discrimination on grounds of gender identity engages Charter Article 21, that States must provide clear and foreseeable LGR procedures, and that conditioning LGR on surgical intervention undermines Charter Articles 3 and 7. By dismantling Portugal's self-determination model and proposing to reintroduce a

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[16] FRA, EU LGBTI Survey II (2019), question on the age at which trans respondents realised their gender identity; the EU-wide result is about 73% before the age of 18 (TGEU cited 72% at the hearing). [To be checked against the FRA data explorer.]

[17] CPR (2024), "Vejledning til ansøgning om nyt personnummer til personer under 18 år begrundet i en oplevelse af at tilhøre det andet køn" ["Guidance on applying for a new personal identification number for persons under the age of 18 on the grounds of a sense of belonging to the opposite sex"], available at: https://www.cpr.dk/borgere/kan-jeg-faa-et-nyt-personnummer/juridisk-koensskifte

[18] PACE Resolution 2048 (2015), Discrimination against transgender people in Europe, para. 6.2.

[19] Council of Europe Commissioner for Human Rights (Dunja Mijatović), Issue Paper 'Human Rights and Gender Identity and Expression' (March 2024), key recommendations: https://rm.coe.int/issue-paper-on-human-rights-and-gender-identity-and-expression-by-dunj/1680aed541. See also Council of Europe, Thematic Report on Legal Gender Recognition in Europe (2022).

mandatory diagnosis of ‘gender incongruence or gender dysphoria’ as a precondition to LGR, the Bill is not in line with the spirit or direction of travel of the CJEU’s jurisprudence.

Similarly, the ICD-11, followed a broader trend towards demedicalisation in LGR,[20] and requires one diagnosis, while the Bill adds verification by a multidisciplinary team, and without explicitly stating it, reverts Portugal back to a model that includes years of monitoring and a surgical pathway. The Court of Justice of the EU has since ruled that proof of surgery may not be required to correct gender data,[21] and that EU law requires accessible LGR procedures where gender identity affects free movement.[22]

A diagnosis would also not protect against the risks invoked in the debate. Safety and security, depend neither on a diagnosis nor on a person’s body and are assessed individually.[23] A diagnostic gate squanders scarce healthcare resources already under pressure, on certifying instead of treating. The shortage of trained professionals in trans and intersex-specific healthcare; the requirement of confirmation from a multidisciplinary team creates a de facto barrier to recognition.

For intersex persons, Article 5’s proposed amendments require a medical report under the same procedure, designed around a diagnosis of ‘gender incongruence or gender dysphoria’, which has no relevance for them and would push them into a pathologising pathway. The diagnosis and report requirements should be rejected together with the Bill.

On Article 4: Amendment to Article 3§2 - Confidentiality exceptions

Medical confidentiality is protected under Article 8 ECHR.[24] Exceptions must be necessary for a specific purpose. Disclosure to heirs (as proposed in Article 3§2) are not valid purposes: a person’s sex does not matter for inheritance,[25] and disclosure would only expose protected health data. These exceptions should be limited to cases ordered by a court.

On Article 5: Amendment of Article 1-A - Prohibition of discrimination

The Bill, in Article 5, which amends Article 1-A Law No.7/2011 of 15 March, proposes to remove the explicit recognition of gender expression as a protected right. The current Self-Determination Act (Article 2) prohibits any discrimination, direct or indirect, on the grounds of gender identity, gender expression and sex characteristics.

We wish to underline that the ECtHR treats gender identity as covered by Article 14 ECHR[26], and that Article 14’s list of grounds is open-ended. Gender expression is the outward manifestation of gender identity (e.g. through physical appearance, dress, hairstyles, mannerisms, speech, names and behaviour), and is where discrimination in daily life usually occurs, including against persons who are not trans, intersex or non-binary. The Yogyakarta

[20] UN Independent Expert on SOGI, Report on legal recognition of gender identity, A/73/152 (2018).
[21] CJEU, Case C-247/23, Deldits, 13 March 2025.
[22] CJEU, Case C-43/24, Shipova, 12 March 2026.
[23] See Köhler (2022), Self-determination in Europe, cited above and its forthcoming 2026 update (data available upon request.)
[24] GDPR, Articles 5(1)(c) and 9(1); ECtHR, Z v. Finland, no. 22009/93, 25 February 1997.
[25] Law No. 9/2010 of 31 May.
[26] ECtHR, P.V. v. Spain, no. 35159/09, 30 November 2010.

Principles plus 10, elaborated by international human rights experts, provide an authoritative (though non-binding) statement on the application of international human rights law to gender identity, sex characteristics and gender expression[27]. The Bill thus reduces today's protection and falls behind the direction of international standards. We recommend that Article 1-A§1 expressly include gender expression, as Article 2 of the Self-Determination Act does.

Furthermore, paragraph 3 of Article 1-A is new and proposes to let sports federations set competition categories by "biological sex" in order to ensure "fairness and integrity". Similarly, leaving tailor-made solutions to sports associations bears the risk of the exclusion of trans and intersex people from amateur as well as professional sports. Where rules establish a difference in treatment between trans and cisgender women, for such a difference in treatment to be permitted by law, it must pursue a legitimate purpose and the rules put in place must be necessary and appropriate.[28] We are particularly concerned about the effect of this provision on children and young people. Competition rules set by federations rarely stay at the elite level. They shape youth leagues, club training and school sport, where young people's first and most frequent experience of sport takes place. Requiring categories to follow "biological sex" risks excluding trans and intersex children and adolescents from sport with their peers, at an age when taking part matters most for their physical and mental health, their sense of belonging and their social development. It may also expose intersex young people in particular to intrusive scrutiny or verification of their bodies, in breach of their privacy and dignity. A blanket rule based on "biological sex" is hard to reconcile with Portugal's obligations under the Convention on the Rights of the Child, in particular the prohibition of discrimination (Article 2), the best interests of the child (Article 3) and the right to play and recreation (Article 31).[29] On Article 5: Amendment of Article 1-B - Protection of sex characteristics
Article 5, in its proposed amendment to Article 1-B of Law No.7/2011 of 15 March, echoes Article 4 of the Self-Determination Act. We welcome this preservation of rights.

On Article 5: Amendment to Article 2-A -Intersex persons

Paragraphs 1 and 2 pertain to LGR, whilst paragraph 3 of the proposed amendment pertains to non-consensual medical interventions.

Regarding LGR, the Bill creates in Article 5 an access route for intersex persons from age 16, by proposing to amend Article 2 of Law No.7/2011 of 15 March. It proposes these changes, in line with Article 3 (i.e. requirement of a report confirming gender incongruence or gender dysphoria from a multidisciplinary clinical team), or for those below age 16, 'subject to a specialist medical report justifying the request and the informed, free and express consent of the holders of parental responsibility or legal representatives'.

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[27] Yogyakarta Principles plus 10 (2017), preamble; see also Principles 31, 32 and 33.
[28] Tribunal de première instance francophone de Bruxelles, Section civile, Ordonnance, 24/329/C,10 July 2025, https://igvm-iefh.belgium.be/sites/default/files/media/documents/20250710_ano.pdf ; Committee of Ministers Recommendation §23 CM/Rec(2025)7.
[29] CRC, Articles 3, 3 and 31.

The Council of Europe's Committee of Ministers Recommendation on Equal Rights for Intersex Persons (CM/Rec(2025)7), which Portugal voted to adopt in October 2025, asks for quick, transparent and accessible LGR for intersex persons,[30] and under the Self-Determination Act intersex persons can apply once their gender identity manifests. The Bill adds an age floor and makes recognition dependent on a medical report from a multidisciplinary team confirming 'gender incongruence or gender dysphoria', thereby forcing intersex persons to obtain documentation which pathologizes their natural variation of sex characteristics as something which is 'incongruent' or somehow leading to 'dysphoria'.

Moreover, the current proposal only requires, for persons below age 16, the consent of the 'holders of parental responsibility or legal representatives' thereby regressing from the self-determination model of the Self-Determination Act, which places the consent of the person themselves at the forefront of the decision-making process about their own body.

Regarding non-consensual interventions: Non-vital interventions without free and informed consent have been identified as violating physical and mental integrity, the prohibition of ill-treatment and the right to health by the UN Special Rapporteur on torture, the Parliamentary Assembly[31] and, in October 2025, the Committee of Ministers in Recommendation CM/Rec(2025)7, which Portugal helped adopt and which calls for prohibiting non-consensual interventions.[32] The UN Human Rights Committee welcomed Law 38/2018 in 2020 while voicing concern about continued irreversible procedures on intersex children, and the Committee on the Rights of the Child urged Portugal in 2019 to end unnecessary interventions.[33] A 2024 WHO-supported systematic review found a lack of solid evidence behind early 'sex-normalising' surgeries.[34] The CAT recommends guaranteeing independent oversight of the relevant decision-making processes to ensure that every medical treatment for children with intersex traits who are unable to consent is necessary, urgent and the least invasive option[35], however the Bill falls short of providing an explanation of how "proven risk to their health" will be assessed and defined.

While Bill 486, in its amendment to paragraph 3 of Article 2-A of the Law No.7/2011 of 15 March, would introduce a consent requirement for any surgery or intervention, and proposes to prohibit 'treatments and surgical, pharmacological or other interventions involving modifications to the body and sexual characteristics of an intersex minor', its broad, undefined "health exception" could encompass non-consensual, medically unnecessary "normalising interventions", which includes surgery to align an intersex person with either male or female biological sex markers.

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[30] Recommendation CM/Rec(2025)7, cited above.
[31] UN Special Rapporteur on torture, A/HRC/22/53 (2013); PACE Resolution 2191 (2017).
[32] Recommendation CM/Rec(2025)7, cited above.
[33] CRC Committee, Concluding observations on Portugal, CRC/C/PRT/CO/5-6 (2019), para. 28; Human Rights Committee, Concluding observations on Portugal, CCPR/C/PRT/CO/5 (2020), paras. 16-17.
[34] 'Perspectives on conducting "sex-normalising" intersex surgeries conducted in infancy: a systematic review', PLOS Global Public Health (2024).
[35] (see CAT/C/FIN/CO/8, § 45, 2024; CAT/C/NZL/CO/7, § 54, 2023)

Evidence suggests that in Germany[36], which has banned non-consensual interventions on intersex minors except in situations of “imminent danger or threat to health” since 2021, that the current legal safeguards are not fully prohibiting interventions which are meant to only take place in these urgent situations. Analyses show that there is a significant gap around the education of medical professionals, the awareness raising of the judiciary as well as the general public. Until this has happened, and without explicit provisions in the Bill outlining how these measures are to be achieved, the full protection of intersex minors from medically unnecessary interventions, without their consent, cannot be guaranteed; A recent reply[37] from the German Ministry of Justice and Consumer Protection to a parliamentary question shows that these interventions continued in 2023 and 2024: the reply states that out of 71 proceedings under Sections 1631e that were brought to the Family Courts, 70 interventions were allowed to be carried out with the consent of the parents and 1 was allowed without requiring the consent of the parents. New research from 2025 revealed the same findings[38]: most often, the supposed safeguards of the Family Court procedure in cases where interventions are deemed necessary, rely and follow almost exclusively the recommendations from medical commissions that continue to treat innate variations of sex characteristics as conditions to be “corrected”.

Therefore, in the case of intersex minors, the absence of a robust definition or comprehensive clinical guidelines stipulating which exact situations constitute an intervention deemed necessary to avert imminent danger or threat to health, this proposed change essentially encourages the pathologising logic behind non-consensual, medically unnecessary interventions in childhood. Article 2-A§3 should therefore be rejected, while we also underline that the Act could also be improved in its wording around exceptions in situations of proven risk to their health in Article 5.

On Article 5: Amending Article 4-B - Effects

The Bill proposes a new 30-day deadline to update identity documents. This places a new burden on the applicant. Should the person not be able to update their identity documents within a month, it would make the decision received under Article 3 void, requiring the person to restart the proceedings without their personal situation having changed. We suggest rejecting this time limit in its entirety.

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[36] See *OII Europe calls on the German Government to carry out the evaluation of the German IGM ban*, July 23 2026: https://www.oiieurope.org/evaluation-of-the-german-igm-ban/#de8c4295-c9ba-4804-b2d0-3c45aa31d16b

[37] See the Federal Government’s response on 15 July 2026 to a parliamentary question No. 7/102 from Maik Brückner (Die Linke), Member of the German Bundestag, regarding operations carried out on intersex children: (page 45) https://dserver.bundestag.de/btd/21/071/2107180.pdf

[38] Mangold, A.K. & Markwald, N. (17 June 2025), Available at: https://eufbox.uni-flensburg.de/index.php/s/CY32N7GQAiic6xy?dir=/&editing=false&openfile=true

On Article 5: Amending Article 4-C - Healthcare

The Bill proposes to introduce guarantees for the provision of mental health and medical support through primary and specialised service providers. We welcome such guarantees in principle, but reject the terminology of Article 5. Article 5, in its proposal to amend Article 4-C of Law No.7/2011 of 15 March, provides psychological support to persons with 'gender incongruence or gender dysphoria', thereby presenting trans, intersex, and non-binary persons, and gender diversity as a whole, as a disorder to be treated. Support must always be voluntary and consent-based. In regard to minors the formulation risks being read as endorsing practices aimed at changing identity, which Portugal has criminalised and UN experts have found may amount to torture or ill-treatment.[39] Adults' and minors' access to healthcare should rest on informed consent without mandatory psychiatric assessment and pathologisation, as we argued before.[40] While we welcome the explicit mention of the need to guarantee access to primary and specialist support, we recommend deleting references to 'gender incongruence or gender dysphoria' and suggest highlighting that any health intervention should be aligned with the right to free development and expression of one's gender identity, aligning the present Article with an individualised, rights-based approach. The phrasing in Law 38/2018 is much more adequate: "The State must guarantee, to anyone who requests it, the existence of and access to referral services or specialized units within the National Health Service, especially for treatments and surgical, pharmacological or other interventions aimed at aligning the body with their gender identity." We suggest retaining this formulation.

On the Right of Young People to be Heard

The Bill would directly affect children and young people, most immediately 16 and 17 year olds, who would lose access to LGR,. Under Article 12 of the CRC, every child capable of forming their own views has the right to express them freely in all matters affecting them, with those views given due weight in line with their age and maturity.[41] In its General Comment No. 12 (2009)[42], the Committee on the Rights of the Child makes clear that this right applies to the development of laws and policies, not only to individual proceedings. It sets out basic requirements for meaningful participation: transparent and informative, voluntary, respectful, relevant, child-friendly, inclusive, supported by training, safe and sensitive to risk, and accountable. General Comment No. 20 (2016) on adolescents[43] reinforces this by calling on States to involve adolescents in decisions that affect them and to respect their evolving capacities. A reform that would remove existing rights from young people without seeking their views falls short of these obligations. We therefore ask that, should the Bill proceed, Parliament first holds hearings with trans and intersex young people and the organisations that work with them, designed in line with the requirements above and with their safety, anonymity where needed and wellbeing fully guaranteed.

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[39] Law No. 15/2024 of 29 January; UN Independent Expert on SOGI, Report on conversion therapy, A/HRC/44/53 (2020).
[40] ILGA-Europe, TGEU and OII Europe, Comments to Law Proposals 242/XIII/1st, 317/XIII 2nd and 75/XIII 2nd (2017); TGEU, Checklist Gender Recognition Legislation (13 October 2017).
[41] CRC, Article 12(1)-(2)
[42] CRC Committee, General Comment No. 12 (2009)
[43] CRC Committee, General Comment No. 20 (2016)

On the absence of a provision regarding the option to use a social name

The Bill would effectively also remove an important provision guaranteed by Law 38/2018, pertaining to the possibility of using a "social name", when the person's identification documents do not align their someone's gender identity. The provision in Article 3§2 of Law 38/2018, on self-determination of gender identity and gender expression, which allowed for persons who could not perform LGR to present themselves with their chosen name (in schools, faculties, companies, public services). This provision has been essential in ensuring that the right to self-determination be upheld for migrants living and working in Portugal who cannot change their identity documents, minors who are unable to access LGR, as well as for non-binary and gender diverse persons who don't feel comfortable changing their name and gender marker to one of the binary options available. This provision in Law 2018/38 has had a profound impact on people's personality development and quality of life, and we therefore strongly recommend bringing back a similar provision in the Bill.

Conclusions

The submitting organisations see no demonstrated need for the Bill and many clear conflicts with Portugal's human rights obligations. It would bring back medical gatekeeping and pathologisation, exclude endosex (non-intersex) 16 and 17 year olds, offer no improvement regarding the protection of intersex children, weaken non-discrimination protections by removing the ground of 'gender expression', remove key provisions of the Act pertaining to healthcare and education, and regress on the rights and freedoms of trans, intersex and non-binary persons in the field of sports.

We ask the Assembly to withdraw the Bill or vote against it in its entirety and, should any reform be considered, to precede it by a child rights impact assessment and by hearings of trans and intersex persons, including young people, whilst fully ensuring that those young people's wellbeing and safety is guaranteed.