Trans Rights Europe & Central Asia Index & Maps 2020

publication, non-discrimination

The **Trans Rights Europe & Central Asia Index** provides detailed information on the legal situation of all 47 Council of Europe Member States and five Central Asian countries. The Index covers a total of **30 indicators** in six legal categories:

- Legal gender recognition
- Asylum
- Bias-motivated speech and violence
- Non-discrimination
- Health
- Family.

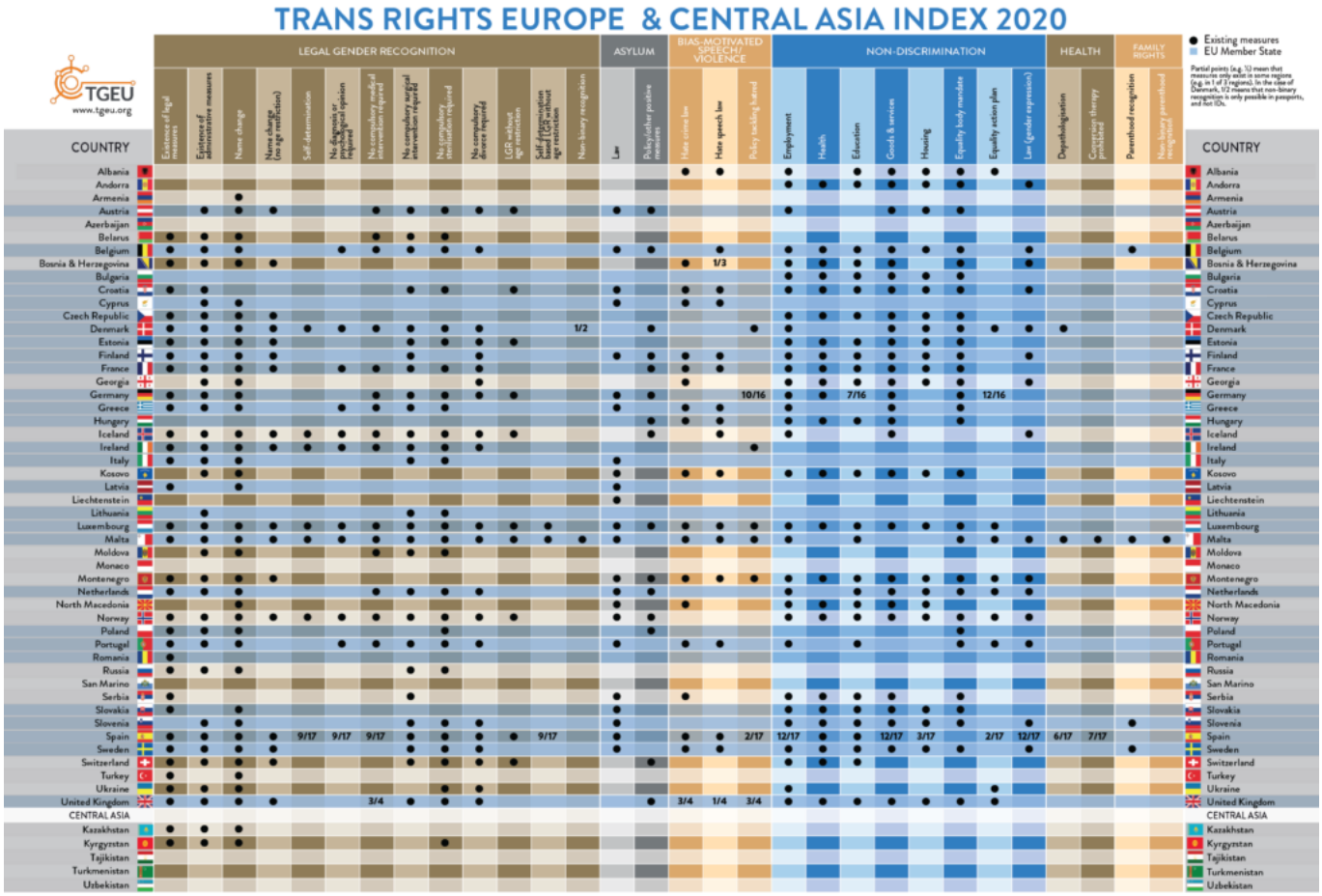


The **Trans Rights Europe & Central Asia Maps** focus specifically on two legal gender recognition (LGR) indicators that stigmatise and violate the rights of trans people: **forced sterilisation** and **mandatory mental health diagnosis**. Each of the respective maps illustrates which countries demand these problematic LGR requirements.

Get to know more about the indicators.

Collectively, the Trans Rights Europe & Central Asia Index & Maps reflect the current legal situation in countries throughout the region based on consultation from in-country experts as of 10 May 2020. Please note the Index and related maps do not claim to exhaustively portray the complex legal and social contexts that trans people live in.

Trans rights Europe & Central Asia index 2020



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Trans rights Europe & Central Asia maps 2020

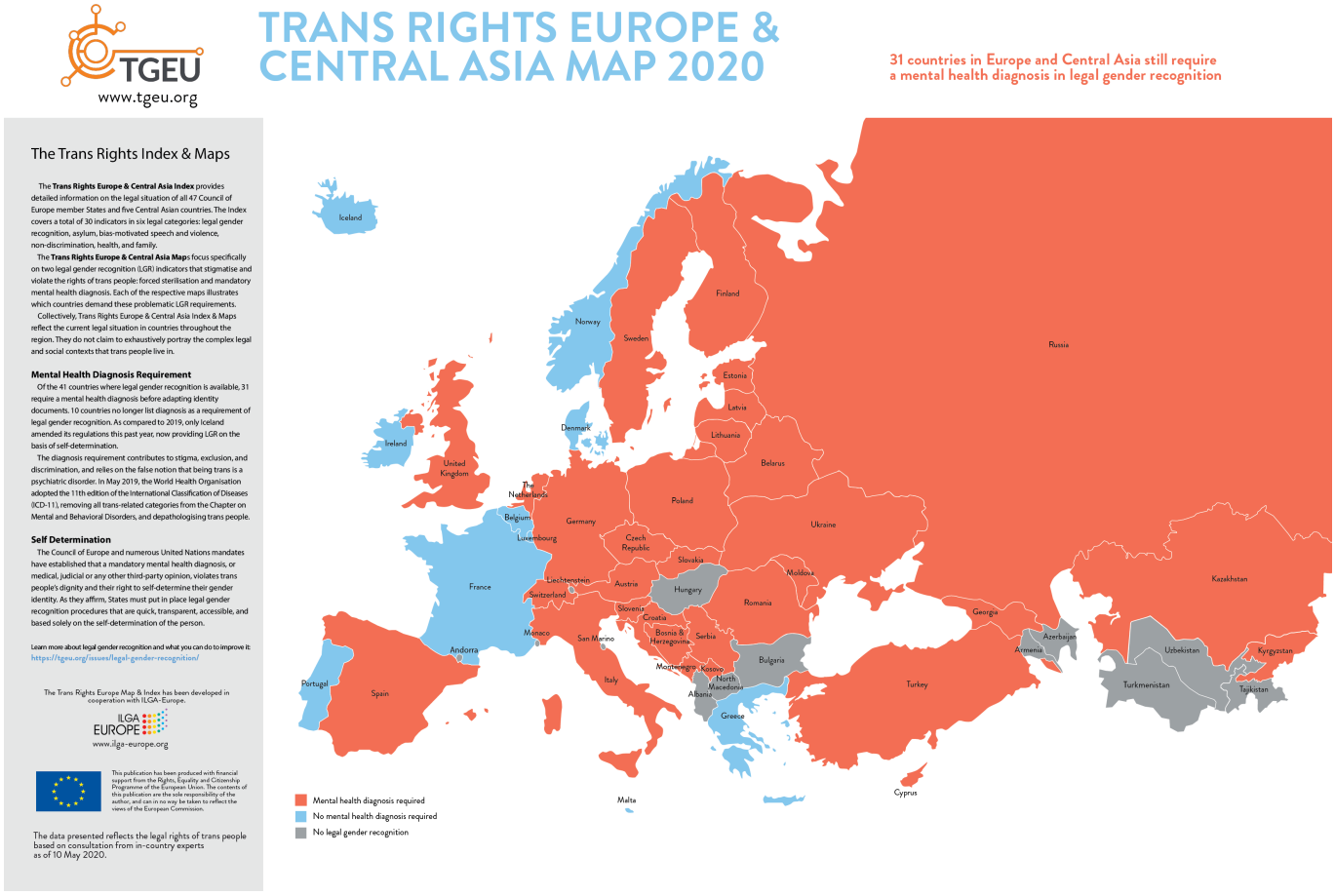
Legal gender recognition procedures are in place in 41 out of 54 countries.

39 of 47 Council of Europe member States and 2 of 5 Central Asian countries have a legal gender recognition procedure in place that provides consistent results for trans people who access it. In all, trans people can change their gender marker in 41 of the 54 countries in Europe and Central Asia. As compared to 2019, legal gender recognition is no longer accessible in Hungary and in-country experts in several countries confirmed that the practice of LGR can no longer be considered consistent. On a positive note, Iceland moved to self-determination, Cyprus introduced administrative measures for the first time, courts in Kosovo passed the first positive rulings in LGR cases, and trans people in Armenia have been successful in accessing name changes. Spain abolished the

age limitation on LGR and Northern Ireland ended the divorce requirement as marriage equality entered into force.

Mental health diagnosis requirement in 31 countries

Of the 41 countries where legal gender recognition is available, 31 require a mental health diagnosis before adapting identity documents. 10 countries no longer list diagnosis as a requirement of legal gender recognition. As compared to 2019, only Iceland amended its regulations this past year; they now provide LGR on the basis of self-determination without requiring a diagnosis.



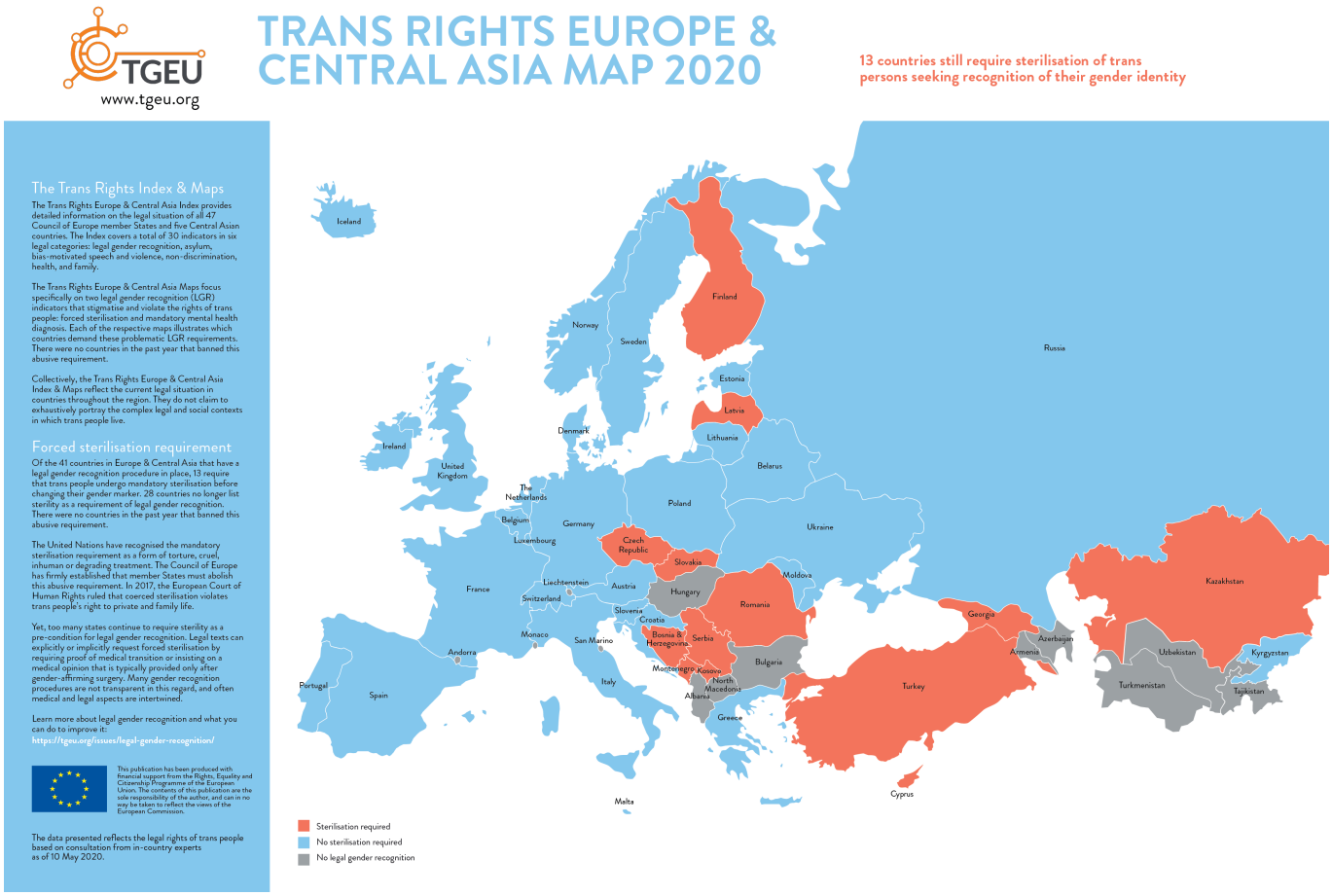
[Download map]

The [Council of Europe] and numerous United Nations mandates have established that a mandatory mental health diagnosis, or medical, judicial or any other third-party opinion, violates trans people's dignity and their right to self-determine their gender identity. As they affirm, States must put in place legal gender recognition procedures that are quick, transparent, accessible, and based solely on the self-determination of the person.

The diagnosis requirement contributes to stigma, exclusion, and discrimination, and relies on the false notion that being trans is a psychiatric disorder. In May 2019, the World Health Organisation formally adopted the 11th edition of the International Classification of Diseases (ICD-11) in which all trans-related categories were removed from the Chapter on Mental and Behavioural Disorders. With this historic move, WHO depathologised trans people. The World Professional Association for Transgender Health (WPATH) also advises against any mandatory diagnosis or compulsory mental health treatment as part of the legal gender recognition.

Forced sterilisation in 13 countries

Of the 41 countries in Europe & Central Asia that have a legal gender recognition procedure in place, 28 countries no longer list sterility as a requirement of legal gender recognition. 13 require that trans people undergo mandatory sterilisation before changing their gender marker. There were no countries in the past year that banned this abusive requirement.



Download map

The United Nations has recognised the mandatory sterilisation requirement as a form of torture, cruel, inhuman or degrading treatment. The Council of Europe has firmly established that member States must abolish this abusive requirement. In 2017, the European Court of Human Rights ruled that coerced sterilisation violates trans people's right to private and family life.

Yet, too many states continue to require sterility as a pre-condition for legal gender recognition. Legal texts can explicitly or implicitly request forced sterilisation by requiring proof of medical transition or insisting on a medical opinion that is typically provided only after gender-affirming surgery. Many gender recognition procedures are not transparent in this regard, and often medical and legal aspects are intertwined.

Fast facts



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Legal gender recognition (LGR)

- 41 of the 54 reviewed countries have legal or administrative measures in place that make legal gender recognition available to trans people. Of these 41:
    - 31 countries prescribe a mental health diagnosis
    - 13 demand sterility
    - 20 still require a divorce
    - 31 countries impose age limitations, making access to legal gender recognition harder or impossible for minors.
- 6 countries base legal gender recognition procedures on self-determination of the person (2019: 5).
- 1 country provides full and 1 provides partial legal recognition to non-binary people (2019: same).

Asylum

- 23 of the 54 reviewed countries offer international protection on grounds of gender identity (2019: 19).

Non-discrimination

- 32 countries prohibit discrimination in employment on the ground of gender identity (2019: 30).
- 24 countries prohibit discrimination in health on the ground of gender identity (2019: 19).
- 27 of the reviewed countries protect against discrimination in education based on gender identity (2019: 22).
- 28 countries protect trans people against discrimination in access to goods & services (2019: 26).
- 22 countries prohibit discrimination in housing on the basis of gender identity (*new indicator)*.
- 29 countries have an Equality Body mandate (2019: 27).
- 10 have an Equality Action Plan in place (2019: 13).
- 15 countries provide protection on the ground of gender expression (2019: 11).

Bias-motivated speech and violence

- 18 countries have laws that prohibit hate crimes against trans people and 16 prohibit hate speech (2019: 17 and 16, respectively).
- 5 countries have other positive measures in place that are aimed at combating bias-motivated crime and hate speech against trans people (2019: 7).

Health

- Denmark and Malta remained the only countries to have depathologised trans identities.
- Malta remains the only country to prohibit conversion therapy on grounds of gender identity.

Family

- 4 countries recognise the gender identity of binary trans parents and Malta recognises non-binary parents as well (2019: same).

Compliance with EU regulations

Of the 54 countries investigated, 27 are European Union member States. As such, they bear the obligation to protect trans people from discrimination in employment and access to goods and services, and to provide

international protection to trans refugees.

- Only 19 of 27 EU member States protect against discrimination in employment on the ground of gender identity, with the remaining 8 violating EU law (2019: 18).
- Only 17 of 27 EU member States protect against discrimination in access to goods and services on the ground of gender identity, with the remaining 10 violating EU law (2019: 16).
- Only 17 of 27 EU member States provide international protection for trans refugees, with the remaining 10 violating EU law (2019: 16).

Disclaimer

The data presented reflects the legal rights of trans people based on consultation from in-country experts as of 10 May 2020

In collaboration with

The Trans Rights Europe and Central Asia Index 2020 has been developed in cooperation with ILGA-Europe.