

Report

on the implementation of Recommendation CM/Rec(2010)5 of the Committee of Ministers of the Council of Europe on measures to combat discrimination on grounds of sexual orientation or gender identity by the Republic of Cyprus

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I. Executive Summary

The Recommendation of the Committee of Ministers of the Council of Europe was a historic step and one of the greatest achievements in supporting the rights of the LGBT population in the member states of the Council of Europe. As one of the 47 members of the Council of Europe, Cyprus has agreed to, and was expected to, take this Recommendation into account.

In 2012, Cyprus participated in the project “Monitoring implementation of the Council of Europe Recommendation to member states on measures to combat discrimination on grounds of sexual orientation or gender identity”. The evidence presented in the 2012 Report indicates that state authorities in Cyprus did not have in place effective measures to combat discrimination on grounds of sexual orientation or gender identity and expression.

The present research continues to identify a significant gap in the implementation of the Recommendation by the Republic of Cyprus, despite some progress made towards this objective. Where Cyprus has implemented legislation or measures to prohibit discrimination on grounds of sexual orientation, such legislation or measures often fail to include gender identity and expression. Trans issues remain mostly outside discourse or protocol and receive minimum mention in legislation or action.

In May 2015, the Penal Code was amended by Law 87 (I) 2015, which punishes public incitement to violence or hatred against a group of individuals or a member of such a group based on their sexual orientation or gender identity and expression. However, to date, state bodies have not collected data relating to discrimination and/or human rights violations on grounds of gender identity and expression or sexual orientation, and the data collected does not reflect the actual extent of the problem. The above is also confirmed by a report of the former head of the Anti-Discrimination Body, Aristos Tsiartas.

Unfortunately, in our country, while the homophobic and transphobic hate statement has already been criminalized, the homophobic and transphobic offence itself is not recognized

*as such. This has the effect of neglecting and concealing offences against LGBTI individuals who are reluctant to appeal to the authorities, fearing both ridicule and depreciation as well as further victimization.*¹

An ad-hoc procedure, not codified into law, exists for trans individuals to change their gender markers on official identity documents (with the exception of their birth certificate), but this is still contingent on applicants first undergoing medical transition and irreversible surgical procedures, including sterilization. In all cases, the original gender marker remains unchanged on birth certificates. There is no legal framework to secure a requirement for gender reassignment recognition in non-state documents, such as school certificates. This creates constant stress for trans people as, in availing themselves of any public service or in visiting any public office, they may be found in the data system with their original gender marker.

With regards to healthcare, discrimination and derogatory treatment of trans persons is frequently reported, including refusal of treatment, moralizing criticism of their ‘condition’ and failure to address their cases with sufficient gravity. Furthermore, the specific health needs of trans people continue to be disregarded on the whole, given the absence of formal guidelines regarding trans-specific healthcare and guidelines relating more broadly to trans people seeking access to medical transition-related procedures.

The Equal Employment Law of 2004 prohibits discrimination arising from sexual orientation in employment, but it does not make any reference to gender identity and expression. Thus, in the workplace, trans people do not enjoy any specific legal protection, despite empirical evidence indicating that gender identity and expression-based discrimination is a reality in various aspects of employment.

¹ Tsiartas, A. (April 2016), *Position of the Anti-Discrimination Body on the Legislation on Hate Crimes Against LGBTI people*

In the education sector, some progress has been made with the adoption of the “*Anti-Discrimination Code of Conduct and Guide for Handling and Recording Discriminatory Incidents*”. The Code comprises a fairly useful toolkit with information regarding the manner of handling, recording, reporting and responding to discriminatory incidents. The reference to transphobia, and an explanation of the term within the framework of prejudice, is very significant. However, there is a distinct lack of implementation across the education sector. There is also an absence of any formal guidelines and training regarding how to handle incidents of transphobic bullying within schools.

In conclusion, the Cypriot authorities do not appear to have implemented CM/Rec(2010)5, despite the small progressions made in relation to the 2012 Report, particularly when it comes to trans issues. From the time of its adoption up to the completion of this report (June 2018), there has been little-to-no action aimed at implementing the Recommendation, although increments of progress were noted in certain areas, such as in the case of the Hate Speech Law and in education.

II. Introduction

Background

On 31 March 2010, the Committee of Ministers of the Council of Europe adopted its Recommendation to member states “on measures to combat discrimination on grounds of sexual orientation or gender identity”. It was an historic moment. As the Council of Europe Secretary-General, Thorburn Jagland stated, the Recommendation is the world's first international legal instrument dealing specifically with discrimination on these grounds, which he described as "one of the most long-lasting and difficult forms of discrimination to combat".²

In broad terms, the Recommendation entails three key elements:

- It emphasizes the key principle, that human rights are universal and apply to all individuals, therefore including LGBT persons;
- It acknowledges the reality of centuries-old and ongoing discrimination experienced by LGBT persons on account of their sexual orientation or gender identity and expression;
- It recognizes that specific action is required to ensure the full enjoyment of human rights by LGBT persons and sets out the measures required of member state governments.

The Recommendation was agreed upon unanimously by the 47 Council of Europe member states. Although, as a Recommendation rather than a Convention, it is not legally binding, it is based firmly upon the existing legally binding international and European human rights obligations of the member states, which therefore implies their duty to implement its main elements. It is also a significant sign of pan-European consensus and a gesture of political

² “Council of Europe to advance human rights for lesbian, gay, bisexual and trans persons” <https://wcd.coe.int/ViewDoc.jsp?id=1607163&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE>

will to act proactively towards the improvement of the legal protection of LGBT individuals in the member states of the organization.

The Recommendation has three parts: first, a preamble, which sets out the background to its adoption, and the key principles guiding it; second, the operative section of the Recommendation, which is very brief, listing broad measures to be taken; and third, an Appendix which sets out specific measures to ensure enjoyment of rights and the combatting of human rights violations across a wide range of areas, including hate crimes, hate speech, freedom of association, expression and assembly, right to respect for private and family life, employment, education, health and housing, sports, the right to seek asylum, and discrimination on multiple grounds. It also includes a section on the role of national human rights structures.

The Recommendation is supported by an Explanatory Memorandum, which documents the international human rights instruments and legal precedents on which the individual measures in the Recommendation and the Appendix are based.

In 2012, Cyprus participated in the project “Monitoring implementation of the Council of Europe Recommendation to member states on measures to combat discrimination on grounds of sexual orientation or gender identity”, supported by ILGA-Europe’s Human Rights Violations Documentation Fund, within the framework of the project “Implementing the Council of Europe’s Recommendation on LGBT rights”. The evidence presented in the 2012 Report indicates that state authorities in Cyprus did not have in place effective measures to combat discrimination on grounds of sexual orientation or gender identity and expression. In particular, the 2012 report identified a large gap in terms of issues impacting trans people. The research showed that trans-related issues were invariably left outside discourse or protocol and received no mention in legislation or action. Moreover, the report refers to the regulations governing the procedures for legal recognition of a person’s gender reassignment, which includes a requirement for gender reassignment surgery and proof of single (or divorced) status.

The purpose of this report

The purpose of this report is to assess what progress has been made by the Cyprus authorities in implementing the Recommendation on measures to combat discrimination on grounds of gender identity and expression, and to highlight the areas, within the timeframe of 2013 to the present, where further action is needed, as a follow-up to the report issued in 2012. By documenting which measures have been completed and which have not, it provides a benchmark against which to measure further progress in implementing the Recommendation in the coming years.

Methodology

The report's assessment of progress is based on a checklist of specific detailed measures required by the Recommendation. The data used to assess progress in implementation has been obtained from a number of sources:

- Information collected through meetings and interviews conducted by the researcher with representatives of relevant ministries, departments and members of the trans community in Cyprus, in response to the relevant checklist of questions.³
- Information from published sources, such as the 2012 Report on implementation of Recommendation CM/Rec(2010)5 of the Committee of Ministers of the Council of Europe on measures to combat discrimination on grounds of sexual orientation or gender identity and expression by the Republic of Cyprus. Information from national reports, and case reports assessing complaints for discrimination on the basis of gender identity and expression filed with the Cyprus Anti-Discrimination Body (Office of the Commissioner of Administration/Ombudswoman), were also used.
- Research and documentation assembled by non-governmental organizations.

³ Interviews were conducted with: 12 trans individuals, 1 doctor (Ministry of Health), 1 official from the Ministry of Health, 2 lawyers, 2 officials from the Ministry of Education, 1 official from the Ministry of Labour, Welfare and Social Insurance, 1 official from the Ministry of Justice and Public Order and 1 officer of the Anti-Discrimination Body

- Information available via the Cyprus media and online resources.

III. Findings

The Recommendation

The operative text of the Recommendation includes four main requirements: a review of existing measures to eliminate any discrimination on grounds of sexual orientation or gender identity and expression; introduction of effective measures to combat such discrimination; ensuring that victims have access to effective legal remedies; and ensuring that the recommendation is translated and disseminated as widely as possible. It also requires that member states be guided by the principles and measures contained in the Appendix to the Recommendation. The evidence presented in this Report indicates that the Cypriot state authorities do not have in place effective measures to combat discrimination on grounds of gender identity and expression.

IV. Recommendations for actions

Recommendations regarding hate speech

1. An increased country-wide effort to train government employees on matters of discrimination based on sexual orientation, gender identity and expression.
2. Heavier sanctions imposed on homophobic and transphobic hate speech, on the basis of the new provisions of the penal code, making them commensurate to those imposed on hate speech by Law 134 (I) 2011.
3. Consistent and correct supervision, by the relevant public bodies and services, of the procedures to be followed in investigating hate speech and discrimination allegations by trans individuals, as well as ensuring the correct outcome and implementation of potential penalties.
4. Reform of the *Radio and Television Stations* legal provisions to ensure coverage of gender identity and expression in addition to the existing Anti-Hate Speech protections.

Recommendations regarding employment

1. Reform of the relevant legislation so that identity documents can be changed without the need for medical interventions and treatment. Legal gender recognition should be established on the basis of self-determination without diagnosis, medical examinations, hormones, surgeries, etc.
2. Amend the *Equal Treatment in Employment and Labour Law of 2004* to include protection against discrimination on grounds of gender identity and expression.
3. Country-wide training of public- and private-sector managerial personnel on handling discrimination based on gender identity and expression in the workplace.
4. Issuance of codes of practice by the Labour Ministry and Ombudsman to combat gender identity and expression- and sexual orientation-based discrimination in the workplace.
5. Issuance of law/code of practice to protect the gender history and personal data of trans people in the workplace.

Recommendations regarding education

1. Train educators and school personnel on matters relating to gender identity and expression, with an emphasis on topics relevant to different student age groups. In this context, such training would need to enable educators to identify transphobic conduct, as well as making them aware of the basic actions to be taken following incidents of transphobia.
2. Reform of the syllabus for Physical Education class, with additional reference made to gender identity and expression within the framework of human rights and tolerance. For this measure to be taken, it would be necessary to review the Analytical Programmes, as well as the indicators for this subject.
3. Train school personnel in the use of the “*Anti-discrimination Code of Conduct and Guide for Handling and Recording Discriminatory Incidents*”, as well as the referral of transphobic incidents to the School Violence Watchdog. In relation to this, the Education Ministry must draw the attention of educators towards recording and dealing with incidents of transphobic violence, as well as to more broadly informing parents and students on the topic.
4. Pass legislation forbidding discrimination on grounds of gender identity and expression in education.
5. Within the framework of much-required, and as yet not secured, legal gender recognition in Cyprus, include provisions to cover the needs of trans students in terms of the change of identity data in archives and school documents.

Recommendations regarding health

1. Ensure access to legal gender recognition on the basis of self-determination and without mandatory medical interventions (surgery, hormone therapy, diagnosis of gender dysphoria).
2. Train and educate medical and nursing personnel in trans-specific healthcare, and in terms of trans-specific interventions and services that are necessary for medical transition.

3. Train and educate medical and nursing personnel to combat transphobia and discrimination in the health sector.
4. The creation of a database with continuously updated, trans-specific medical information for healthcare practitioners employed at private and public hospitals.
5. Provision, on the Health Ministry webpage, of trans-specific healthcare and medical transition-related information. Such information should also be provided in print form and made available at hospital information areas.
6. Addition of ‘gender identity and expression’ within the framework of protection against “discrimination” in the Protection of the Rights of Patients Law of 2004 (1(I)/2005), which concerns the violation of equal treatment of patients.
7. Removal of the original data (name and gender assigned at birth) of a trans person after the individual secures changes to this data, to ensure that the original data does not appear in any public service database, thereby exposing trans individuals to potential difficulties in accessing resources they would otherwise be entitled to.
8. Ensure that waiting times to access trans-specific healthcare are kept within a reasonable time frame.

Appendix to Recommendation CM/Rec(2010)5

I. Right to life, security and protection from violence

B. “Hate speech”⁴

“Member states should take appropriate measures to combat all forms of expression, including in the media and on the Internet, which may be reasonably understood as likely to produce the effect of inciting, spreading or promoting hatred or other forms of discrimination against lesbian, gay, bisexual and trans persons. Such “hate speech” should be prohibited and publicly disavowed whenever it occurs. All measures should respect the fundamental right to freedom of expression in accordance with Article 10 of the Convention and the case law of the Court”.

Since the last review of the implementation of the Recommendation in Cyprus, some improvements regarding Hate Speech have been observed. However, such improvements can still be further refined, in particular with regards to gender identity and expression. In May 2015, Law 87 (I) 2015⁵ was added to the Cyprus penal code, punishing hate speech and incitement to violence against a group of individuals or a member of such a group based on their sexual orientation or gender identity.⁶ In an effort to align with international and European anti-discrimination edicts, the Cyprus penal code was further amended by adding immediately after Article 35 the following:

⁴ In terms of Right to life, security and protection from violence, this report will only focus on Hate speech.

⁵ Law amending the Penal Code (Law 87 (I) / 2015), as published in the Official Gazette of the Republic of Cyprus, 4515 on 16 June 2015

⁶ “A person who publicly and in a threatening manner intentionally encourages or incites either verbally or with written texts or illustrations or any other way to violence or hatred directed against a person or group defined on the basis of sexual orientation or gender identity, is guilty of an offence and in case of conviction is subject to imprisonment not exceeding three years or to a fine not exceeding €5,000 (£4250) or to both such a fine and imprisonment” (Penal Code, *Incitement to violence or hatred on the grounds of sexual orientation and gender identity*, Article 99A).

“Factors inciting discrimination”

*“35A. In determining punishment under the exercise of its powers, the court may take into account, as an aggravating factor, the motive of discrimination against a group of individuals or a member of such groups, based on race, colour, national or ethnic origin, religious or other beliefs, genealogy, sexual orientation and gender identity”.*⁷

Homophobic and transphobic rhetoric in various forms of public discourse is unfortunately present in the Cypriot context. Public statements by the head of the Orthodox Christian Church of Cyprus, as well as by political figures, add to such discriminatory rhetoric.⁸ It appears that the provisions of the criminal code against such rhetoric are not implemented, and those who are liable remain unpunished, as reported by trans interviewees. A case in point concerns homophobic statements made by the Archbishop of Cyprus on public television in 2016. Thereafter, the previous president of the human rights NGO Accept-LGBT Cyprus wrote a letter to the Attorney General, making an official complaint about the Archbishop’s statements, but never received a response.⁹

The absence of police investigation into one particular case of protracted transphobic rhetoric has also been noted:

⁷ Law amending the Penal Code (Law 31 (I) / 2017), as published in the Official Gazette of the Republic of Cyprus, 4596, April 7, 2017

⁸ <https://www.newsbeast.gr/world/arthro/2441930/chrisostomos-i-ekklisia-agapa-tous-omofilofilous-alla-kapou-to-echoun-parakani>

<https://www.newsbomb.gr/ellada/ekklhsia/story/741503/archiepiskopos-kyproy-dimioyrgo-sxoleia-enantia-stin-omofylofilia-vid>

<http://politis.com.cy/article/polla-euge-ston-andrea-themistokleous>

⁹ <http://dialogos.com.cy/blog/episimi-epistoli-accept-lgbt-cyprus-ston-g-isangelea-gia-ton-archiepiskopo/#.W1mRW9IzYdU>

Unfortunately, in our country, while the homophobic and transphobic hate statement has already been criminalized, the homophobic and transphobic offence itself is neither recognized as such nor does the motive in question constitute a factor aggravating the punishment. This has the effect of neglecting offences against LGBTI individuals who are reluctant to appeal to the authorities, fearing both ridicule and depreciation as well as further victimization.¹⁰

When it comes to transmissions from the island’s media sector, there is also a shortfall in implementing respect for gender identity and gender expression. Under the current TV and Radio Broadcasting Law, the relevant anti-discrimination provision does not include gender identity and expression or sexual orientation.

“Combating Discrimination”

“30. Providers of audio-visual media services, which are under the jurisdiction of the Republic, shall be prohibited from broadcasting programmes that contain hatred based on race, sex, religion or nationality”.¹¹

The Civil Servant Guide to Conduct and Ethics of 2013¹² – drafted by the Department of Public Administration and Personnel, in collaboration with the Ombudsman’s Office – contains no provision on discrimination on the basis of gender identity and expression,

¹⁰ Tsiartas, A. (06/07/2017), Note-Legal Recognition of Gender Identity, File Number: AKP 24/2016

¹¹ Law amending the Radio and TV Stations Laws of 1988 to 2009 (118 (I) / 2010, as published in the Official Gazette of the Republic of Cyprus, No. 4263, 10 December 2010

¹² Retrieved from:

[http://www.mof.gov.cy/mof/papd/papd.nsf/All/1E086EA02FACB997C2257B66004617F1/\\$file/odigos.pdf](http://www.mof.gov.cy/mof/papd/papd.nsf/All/1E086EA02FACB997C2257B66004617F1/$file/odigos.pdf)
?Openelement

although it contains provision for protection from discrimination on the basis of sexual orientation.

Meanwhile, there are several testimonies by local trans individuals referring to mistreatment or demeaning treatment by public sector employees.

“When I came back from the surgery I underwent in London and immediately went to change my papers, my ex-wife, who had public sector connections, did everything in her power to obstruct the changeover of my documents, making my life that much more difficult. In fact, I was thrown out of Immigration by the director himself” (Interviewee 3, trans woman).

The effort to train public sector employees on preventing discrimination, based on sexual orientation, gender identity and expression, is very limited and inconsistent throughout the government sector. It is limited to small training sessions that have neither continuity nor consistency in terms of implementation and oversight of the implementation of training.

Suggested Measures

1. An increased country-wide effort to train government employees on matters of discrimination based on sexual orientation and gender identity and expression.
2. Heavier sanctions imposed on homophobic and transphobic hate speech, on the basis of the new provisions of the penal code, making them commensurate to those imposed on hate speech by Law 134 (I) 2011.
3. Consistent and correct supervision by the relevant public bodies and services of the procedure to be followed in investigating hate speech and discrimination complaints by trans individuals, as well as ensuring the correct outcome and implementation of potential penalty.
4. Reform of the *Radio and Television Stations* legal provisions to ensure coverage of gender identity and expression in addition to the existing Anti-Hate Speech protections

V. Employment

“Member states should ensure the establishment and implementation of appropriate measures which provide effective protection against discrimination on grounds of sexual orientation or gender identity in employment and occupation in the public as well as in the private sector. These measures should cover conditions for access to employment and promotion, dismissals, pay and other working conditions, including the prevention, combating and punishment of harassment and other forms of victimization.

Particular attention should be paid to providing effective protection of the right to privacy of trans individuals in the context of employment, in particular regarding employment applications, to avoid any irrelevant disclosure of their gender history or their former name to the employer and other employees”.

In Cyprus, discrimination in the workplace is governed by the *Equal Treatment in Employment and Labour Law of 2004*.¹³ This law protects against discrimination on the basis of sexual orientation, but not on the basis of gender identity and expression.

Prohibition of discrimination in employment

6. –(1) *Subject to the provisions of Articles 7 and 8, any of the following shall be prohibited:*

(a) direct discrimination

(b) indirect discrimination

(c) harassment; or

(d) an instruction to discriminate

¹³ The Equal Treatment in Employment and Labour Law of 2004 (N.58 (I) / 2004), as published in the Official Gazette of the Republic of Cyprus, 3828 on 31 March 2004

on grounds of religion or belief, age, sexual orientation, racial or ethnic origin, in the areas covered by Article 4.

However, on the basis of the European Council Directive 2006/54/EC on the principle of equal treatment for men and women in matters of employment and occupation, the Cypriot courts are effectively obliged to interpret gender identity and expression discrimination on the basis of the legal provisions concerned with gender discrimination.¹⁴ So far, there has been no recorded case concerning gender identity and expression discrimination in the workplace in Cyprus. This could be interpreted in many ways. Most importantly, to date no data exists on the implementation of the Directive in the case of trans people, which would have allowed us to gauge whether it is being implemented correctly or not.

Furthermore, the absence of a comprehensive framework for legal gender recognition and changeover of official identity documents from the human rights perspective, causes trans individuals' great difficulty in all areas of their daily lives, including at work. The conflict between their physical presentation and the gender marker recorded on their IDs is their biggest obstacle to seeking and securing employment.

“I’m still scared of the prospect of a job. Out of necessity, I look for specific jobs where I’ve heard that other trans individuals were accepted. I cannot go just anywhere, given the explanations I would have to offer regarding my identity card” (Interviewee 9, trans man).

Whereas codes of practice for combating sexual harassment and harassment more generally in the workplace have been issued, neither the Labour Ministry nor the Ombudsman have, to date, issued similar codes to do with discrimination on the basis of sexual orientation or

¹⁴ Kapsou, M., Mantis, S. (2012), Report on Implementation of Recommendation CM/Rec(2010)5 of the Committee of Ministers of the Council of Europe on Measures to Combat Discrimination on Grounds of Sexual Orientation or Gender Identity by the Republic of Cyprus.

gender identity and expression in the workplace. This is an additional obstacle to seeking employment for trans individuals, who are subjected to high degrees of discrimination in all areas of life. Furthermore, there is no effort made by the relevant ministries and departments, private companies or public-sector officials towards educating personnel and employees in matters to do with discrimination based on gender identity and expression.

In addition to this, as reported by trans interviewees, there are no measures taken by the state authorities to prevent disclosure of the birth name and gender assigned at birth of trans individuals in the workplace. Meanwhile, the already difficult situation in which trans people find themselves in terms of employment is exacerbated by the fact that they must undergo a series of surgical interventions before they can secure the changeover of their official documents. This puts them through a protracted period of professional uncertainty, in addition to their exposure to workplace discrimination while lacking legal protection from such discrimination.

Suggested Measures

1. Reform of the relevant legislation so that identity documents can be changed without the need for medical interventions and treatment. Legal gender recognition should be established on the basis of self-determination, without requiring a gender dysphoria diagnosis, medical examinations, hormones, surgeries, etc.
2. The *Equal Treatment in Employment and Labour Law of 2004* should be amended to include protection against discrimination on grounds of gender identity and expression.
3. Country-wide training of public and private sector managerial personnel on handling discrimination in the workplace based on gender identity and expression.
4. Issuance of codes of practice by the Labour Ministry and Ombudsman to combat gender identity- and sexual orientation-based discrimination in the workplace.

5. Issuance of law/code of practice to protect the gender history and personal data of trans employees

VI. Education

“Taking into due account the over-riding interests of the child, member states should take appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; this includes, in particular, safeguarding the right of children and youth to education in a safe environment, free from violence, bullying, social exclusion or other forms of discriminatory and degrading treatment related to sexual orientation or gender identity.

Taking into due account the over-riding interests of the child, appropriate measures should be taken to this effect at all levels to promote mutual tolerance and respect in school, regardless of sexual orientation or gender identity. This should include providing objective and educational materials, and providing pupils and students with the necessary information, protection and support to enable them to live in accordance with their sexual orientation and gender identity. Furthermore, member states may design and implement school equality and safety policies and action plans and may ensure access to adequate anti-discrimination training or support and teaching aids. Such measures should take into account the rights of parents regarding education of their children”.

Education is key in shaping ideas and perceptions, as well as combating the perpetuation of stereotypes and problematic behaviour. The adoption of policies and decisions regarding school operation can, in many cases, either assist or hinder progress.

With regards to trans individuals at Cypriot schools, the Education Ministry’s policy does not provide for the recognition of trans students’ gender identity and expression at any level of schooling. Such recognition could be possible if a student has first secured changes in gender marker and name on their official ID documents, which are, however, contingent

on medical interventions. Additionally, there is no policy or circular raising awareness of educators and other school personnel on the subject of gender identity and expression and self-determination.

Two of the trans individuals who took part in interviews stated that they had tried, with parental consent, to request a change of their personal data on school documents, but this was not possible, since the school was unable to carry out such a change without the student having first succeeded in amending their gender marker and name on their official ID documents.

“At the beginning of this school year, I went with my mother to request a change in my name on all the school’s documents. I’m in the last year of lyceum and wanted my leaving certificate to bear the name that represents the gender I feel I belong to. My mother said that she would sign an authorizing document, if required. This was not accepted because the school authorities said the law would not permit such an action” (Interviewee 12, trans boy).

In 2016, following the founding of the European Commission against Racism and Intolerance (ECRI), the Education Ministry created the *“Anti-discrimination Code of Conduct and Guide for Handling and Recording Discriminatory Incidents”* which schools of every level were required to adopt. The Code comprises a fairly useful toolkit with information on the manner of handling, recording, reporting and responding to discriminatory incidents. The reference to transphobia and an explanation of the term within the framework of prejudice is very significant. However, the mere existence of the Code as a toolkit in schools does not automatically ensure its implementation. In fact, the absence of its implementation seems to be the norm. Additionally, the Education Ministry, via its circular, informs educators on the procedure to be followed to prevent, confront and handle incidents of school bullying, but neglects to include specific reference to transphobia.

One of the interviewees referred to a very serious incident of transphobic abuse against her during the past academic year, while she was in the third year of lyceum. She herself noted that the abuse, which included verbal abuse, ridicule and isolation, was not dealt with by the educators with the requisite attention, nor were any measures taken to deal with the behaviour of the perpetrators, or to inform the victim and her parents of the Education Ministry's provisions on the matter (hotline, School Violence Watchdog, anti-discriminatory policy of the Education Ministry). The reaction of the school and teachers was mostly advisory in nature, aiming to protect the student through limiting her self-expression.

“When the teachers heard that some of my fellow students were making fun of certain pictures I had posted on Facebook, by calling me gay, and making sexual comments, they told the students off, but the matter continued for many days. They did nothing more to stop it” (Interviewee 11, trans girl).

It is clear that, despite the existence of advisory material on resolving discriminatory incidents, the problem lies in the use, or lack thereof, of said material at the school and educator levels. According to the Code, schools are called on to gather teams of educators to watch for incidents of discrimination. Within this framework, as aforementioned, transphobic incidents are included.

The majority of trans individuals who were interviewed stated that they don't consider school to be a safe environment. This is due in part because their preferred name and gender are not recognized, but also because variance in sexual orientation and gender identity and expression is considered an aberration.

“I was different from childhood. I acted like a boy. I played boys' games. I dressed like a boy. This, however, became a problem when I went to school. Those were very stressful and sorrowful years [...] What I remember from those years is my constant effort to suppress myself and to try not to think about it. To avoid thinking about being different and being in a body that did not represent me” (Interviewee 8, trans man).

A similar situation prevails with regard to the Education Ministry's Analytical Programme. Even though it makes general reference to respecting diversity, no specific mention of gender identity and expression is made in the Analytical Programme nor any other indicators defined for elementary and secondary education.

Looking more closely at the curriculum for Domestic Science–Physical Education, in which sexual and reproductive health matters are touched upon, no reference is made to gender identity and expression-related topics. The only time gender identity is mentioned is in the *“Teachers’ manual for the 3rd Gymnasium – Family Planning and Reproductive Health”*.¹⁵

“Through holistic sex education, the instructors of Domestic Science-Physical Education are called upon to promote respect for diversity and create a culture of tolerance around issues of sexual orientation and gender identity”.

There is no equivalent reference in the student manual, and therefore it falls upon each individual educator teaching the lesson to decide whether gender identity and gender expression is discussed.

On being interviewed, a team member for the Analytical Programmes regarding the Domestic Science-Physical Education class, confirmed the absence of any reference to gender identity and expression and transphobia in the class materials.

¹⁵ Retrieved from:

http://www.schools.ac.cy/eyliko/mesi/themata/oikiaki_oikonomia/didaktika_encheiridia/odigos_ekp_c_gy_mnasiou_oikog_prog_sexualiki_anaparagogiki_ygeia.pdf (page 5)

Suggested Measures

1. Train educators and school personnel on matters of gender identity and expression, with an emphasis on topics relevant to different student age groups. In this context, such training would need to enable educators to identify transphobic conduct, and to make them aware of the basic actions to be taken following such incidents.
2. Reform the syllabus for the Physical Education class, with additional reference made to gender identity and expression within the framework of human rights and tolerance. For this measure to occur, it would be necessary to review the Analytical Programmes, as well as the indicators for this subject.
3. Train school personnel in the use of the “*Anti-discrimination Code of Conduct and Guide for Handling and Recording Discriminatory Incidents*”, as well as the referral of transphobic incidents to the School Violence Watchdog. In relation to this, the Education Ministry must draw the attention of educators towards recording and dealing with incidents of transphobic violence, as well as more broadly informing parents and students on the topic.
4. Enact legislation forbidding discrimination on grounds of gender identity and expression in education.
5. Within the framework of much required, and as yet not secured, legal gender recognition in Cyprus, there must be provision to meet the needs of trans students regarding change of identity data in archives and school documents.

VII. Health and Trans-Specific Healthcare

“Member states should take appropriate legislative and other measures to ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; in particular, they should take into account the specific needs of lesbian, gay, bisexual and trans persons in the development of national health plans, including suicide prevention measures, health surveys, medical

curricula, training courses and materials, and when monitoring and evaluating the quality of health-care services.”

Member states should take appropriate measures to ensure that trans persons have effective access to appropriate gender reassignment services, including psychological, endocrinological and surgical expertise in the field of trans health care, without being subject to unreasonable requirements; no person should be subjected to gender reassignment procedures without his or her consent”.

Recognition of an individual’s gender identity is, in accordance with the European Court of Human Rights, chiefly a matter of recognizing an individual’s right to self-determination, as well as respect for his or her right to respect for private life.¹⁶ The fact that in Cyprus currently legal gender recognition for trans individuals requires medical interventions, intensifies their victimization and violates their right to self-determination and their right to respect for private life.

Undergoing medical procedures in Cypriot public hospitals, as well as the additional administrative procedures that are necessary to secure legal gender recognition and changeover of names and gender markers in trans people’s official identifying documents, typically take years to secure. The result of such a time-consuming process proves particularly burdensome to the individuals in question, a fact frequently referred to in interviews with Cypriot trans people:

“When I returned from the procedure I underwent in London and returned immediately to change my documents ... it took three years to change my papers” (Interviewee 3, trans woman).

“Unfortunately, procedures in Cyprus are very slow, especially at the hospital, and this makes my life very difficult. I’m not able to progress as I would have liked” (Interviewee 5, trans man).

¹⁶ Tsiartas, A. (06/07/2017), Note-Legal Recognition of Gender Identity, File Number: AKP 24/2016

Such procedures, in particular medical ones, assume an essential knowledge base of medical personnel to meet the unique needs and issues of trans individuals. The majority of trans-identified interviewees stated that such knowledge base was either totally absent or insufficient, and this was chiefly due to the failure of the state to appropriately train the relevant personnel.

“I was quite disappointed by the psychiatrist I went to (here, the interviewee is referring to visiting a psychiatrist to secure a gender dysphoria diagnosis) as I found her uninformed about such matters. She is also younger than me, and yet didn’t have a clue about LGBTI issues” (Interviewee 10, trans woman).

This statement was confirmed by an endocrinologist from a state hospital who oversees the care of several trans individuals. He stated that any awareness on the part of local medical personnel regarding trans-related health care and procedures is derived purely from their own personal initiative, as well as their participation in trainings and conferences. There is no trans-specific guidance offered to health professionals by the Health Ministry or state hospitals, nor any training provided or referral to participate in related trainings. Any salient information is received from various scientific bodies to which they have access, and whose recommendations they follow in caring for and overseeing the care of trans-identified individuals.

As regards the steps for a trans-identified individual to secure medical transition, the same endocrinologist stated that no official guidance existed in written form that would inform trans people and health professionals as to the best practices for caring for and providing medical transition-related treatments for trans people.

Such insufficient information provided to trans individuals, as well as the non-existent awareness-raising and training of medical personnel viz-a-viz trans-specific healthcare, is described in detail in the interview excerpt that follows:

“I didn’t know from where to start; I didn’t have anyone then to tell me where to begin. One doctor advised me to go to church... Thereafter I went to an endocrinologist. They told me they couldn’t take me on and could not undertake such a responsibility. They told me to wait a while longer. By this point, I had secured a report from a psychologist and psychiatrist, but they still wouldn’t accept to see me. But this particular (endocrinologist) had also told a friend of mine that we were all perverts [...] To get the result I wanted took me a year and a half of hormone treatment – possibly even two years – in order for the changes to be visible. And because the doctor was inexperienced, he hadn’t had a similar case previously, he, too, was afraid to prescribe me a high dosage” (Interviewee 1, trans man).

For these aforementioned reasons, the health practitioners taking on the cases of trans individuals who proceed to medical transition, are very limited in number.

Additionally, no training is offered to nursing staff by the Ministry of Health to meet the health needs of trans individuals, nor are the relevant stages of medical transition that are available to trans individuals offered in written format or displayed on the Ministry’s website.

Furthermore, as mentioned by trans individuals who visit hospitals for their treatments, no trans-related updates or information is available in print form. Such an absence of relevant materials in print form conflicts with the Protection of the Rights of Patients Law of 2004 (1(I)/2005), which states the following provision:

Sufficient information on health services, as well as how to best access them, must be made available to the public (10(1) Right to Information)

Meanwhile, trans individuals in Cyprus desiring genital reconstruction are unable to undergo the relevant surgical procedures locally, as none of the island’s practitioners have

the necessary expertise to perform such operations. This local skill gap notwithstanding, the Health Ministry does not cover the cost of having such interventions performed abroad.

During the course of medical transition, trans individuals must visit state hospitals frequently. The provision of relevant care is nevertheless based on the individuals' name and gender marker as they appear on identity documents, which were designated at birth, and which consequently puts them in a very difficult position in accessing health care. During the course of accessing such care, several trans individuals have encountered transphobic treatment, as they frequently have to explain the difference between the gender they present as and the one recorded on their official ID documents. Yet this problem is still not resolved by merely changing gender marker and name on official documents, as the law forbids any original data from being omitted in official records:¹⁷

(c) To provide for the registration of change of name or surname, on the understanding that the total of name/surname shall not exceed two, taking into account also the original name

Suggested measures

1. Legal gender recognition must be accessible on the basis of self-determination and without mandatory medical interventions (surgery, hormone therapy, diagnosis of gender dysphoria).

¹⁷ Law abolishing the Laws regulating the issues of registration of births and deaths, registration of residents, registration of voters and preparation of the electoral roll, registration of citizens of democracy and at the same time introducing special provisions for the issuance of passports / travel documents and refugee identities for refugees. No. 141 (I) of 2002, as published in the Official Gazette of the Republic. No. 3626 [I] on 26 July 2002, Chapter 2, Part IV, Article 43.

2. Train and educate medical and nursing personnel in trans-specific healthcare, and in terms of trans-specific interventions and services that are necessary for medical transition.
3. Train and educate medical and nursing personnel to combat transphobia and discrimination in the health sector.
4. The creation of a database with continuously updated, trans-specific medical information for the healthcare practitioners at private and public hospitals.
5. Provision on the Health Ministry webpage of trans-specific healthcare and medical transition-related information. Such information should also be provided in print form and made available at hospital information areas.
6. Addition of 'gender identity and expression' within the frame of protection against "discrimination" in the Protection of the Rights of Patients Law of 2004 (1(I)/2005), which concerns the violation of equal treatment of patients.
7. Removal of the original data (name and gender assigned at birth) of a trans person after the individual secures changes to this data, to ensure that the original data does not appear in any public service database, thereby exposing trans individuals to potential difficulties in accessing resources they would otherwise be entitled to.
8. Ensuring that waiting times to access trans-specific healthcare are kept within a reasonable time frame.