LEGAL GENDER RECOGNITION REQUIREMENTS

BASED ON THE EUROPEAN COMMISSION’S “LEGAL GENDER RECOGNITION IN THE EU” REPORT (2020)

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

CLUSTER 1: NO LGR PROCEDURES IN PLACE

BULGARIA CYPUS LITHUANIA LATVIA ROMANIA

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

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

CLUSTER 2: INTRUSIVE MEDICAL REQUIREMENTS

SLOVAKIA CZECHIA POLAND FINLAND AUSTRIA ESTONIA SPAIN ITALY UK

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

CLUSTER 3: MENTAL HEALTH DIAGNOSIS REQUIREMENT

SLOVENIA GERMANY CROATIA HUNGARY SWEDEN NETHERLANDS

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

CLUSTER 4: PROCEDURAL REQUIREMENTS

GRECE FRANCE

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

1 The five clusters in the European Commission’s report were defined in 2019. Already then, trans people from Hungary reported that it was already impossible to obtain LGR. In 2020, Hungary banned legal gender recognition altogether and thus neither longer falls under cluster 3 nor complies with international human rights standards.
II. LGR FRAMEWORKS WHERE TRANS PEOPLE ARE SEEN AS BEST PLACED TO IDENTIFY THEIR OWN GENDER

The legal gender recognition process only involves a self-declaration of one’s identity via a written statement, declaration or request with a competent authority.

In Bulgaria, Cyprus, Czechia, Estonia, Greece, Croatia, Italy, Lithuania, Latvia, Poland, Romania, Slovenia, Slovakia, same-gender marriage is not legal, so existing marriages may become null and void after LGR or will be 'demoted' to civil partnership, which may result in a loss of rights for spouses (and children). In Estonia, Greece, and Slovakia, divorced is explicitly stated as a requirement.

Austria, Bulgaria, Cyprus, Czechia, Germany, Estonia, Spain, Italy, Lithuania, Latvia, Poland, Sweden, Slovakia, and the UK have imposed a timeframe on individuals in accessing LGR, for example requiring ‘real-life experience’ (RLE), which requires a person to live for a certain period of time in line with their gender identity without official documents to support that identity.

Bulgaria, Cyprus, Czechia, Denmark, Estonia, Spain, Finland, France, Lithuania, Latvia, Poland, Romania, Sweden, Slovenia, Slovakia, and the UK explicitly prohibit LGR for children and young people under 18 years old. Austria, Belgium, Germany, Greece, Croatia, Ireland, Italy, Luxembourg, Malta, Netherlands, Portugal allow for LGR under 18, but with additional requirements, such as medical and psychological tests or attestations, parental approval, or burdensome procedural requirements.

**LGR procedures in the EU**

- **Cluster 1:** No LGR procedures in place - 6
- **Cluster 2:** Intrusive medical requirements - 9
- **Cluster 3:** Mental health diagnosis requirement - 5
- **Cluster 4:** Procedural requirements - 2
- **Cluster 5:** Self-determination - 6

Total: 28