

Open Letter to the Prime Minister of the Republic of Finland on the Legal Gender Recognition Reform

September 19, 2014

Dear Prime Minister Alexander Stubb,

Transgender Europe, representing more than 80 transgender organizations in 38 countries, ILGA-Europe, the European Region of the Lesbian, Gay, Bisexual, Trans and Intersex Association, and Amnesty International, welcome the steps taken by the Finnish government to reform the current legislation (Act 563/2002) on legal gender recognition (LGR). As it currently stands we believe the law violates several human rights including the right to the highest standard of health, the right to be free from torture and other ill and degrading treatment and the right to be free from discrimination.¹

In particular, we support the removal of sterilisation as a precondition for legal gender recognition, which constitutes a particularly grave human rights violation.

However, other significant shortcomings relating to legal gender recognition are not addressed in the current legislative proposal. These include the requirements regarding psychiatric diagnosis, single status and age.

We urge your government to uphold Finland's commitment under international human rights law and make the respect for a person's right to self-determination the sole basis for gender recognition legislation, without any other compulsory medical requirements. It follows that psychiatric diagnosis should not be a prerequisite for accessing legal gender recognition and that Finland should remove transgender identities from the psychiatric classification of diseases. The World Health Organization (WHO) is currently debating the possible amendment of the International Classification of Diseases (ICD), which may result in the removal of transgender identities from Chapter V-Mental and Behavioural Disorders.

The World Professional Association for Transgender Health (WPATH), the leading organisation on transgender health care, supports this approach and maintains that the psycho-pathologization of gender characteristics and identities reinforces or prompts stigma, discrimination and social exclusion. Policy makers in Sweden, Denmark as well as Argentina have already abolished sterilisation requirements, introducing gender recognition legislation based on self-determination.

We are also concerned that the current proposal would exclude minors from accessing LGR, which is at odds with the United Nations Convention on the Rights of the Child, according to which the best interest of the child should always be taken into account in light of their evolving capacities.

With regard to the single status requirement, we support the marriage option that would allow married couples to preserve their marriage when one of the spouses obtains LGR. Additionally, legal uncertainties concerning the parental rights of transgender people need to be addressed. The best interest of the child as well the right to privacy of transgender parents should be at the core of any law or policy in this area. Trans parents' gender, name and designation as mother or father in their children's birth certificate ought to correspond to the legal name and gender.

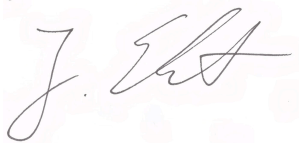
We urge your government to consult with and involve civil society representing transgender people in all issues that concern them, including when reviewing the framework for the provision of trans-specific healthcare.

¹ See Amnesty International, *The state decides who I am: lack of legal gender recognition for transgender people in Europe*, 01/001/2014, January 2014, TGEU Toolkit *Legal Gender Recognition in Europe*, Dec 2013, ILGA-Europe *Rainbow Map*, May 2014

To conclude, we call on you to **ensure that Finnish gender recognition legislation fully complies with international human rights** standards by:

- Removing the requirements of sterilisation and other medical preconditions, such as psychiatric assessment and diagnosis for legal gender recognition
- Make gender recognition accessible to minors according to their best interest and considering their evolving capacities
- Respect and protect the marital status of those seeking legal gender recognition and remove the requirement that they be single;
- Ensure that all information concerning changes of legal name and gender is kept confidential; such information should not generally be accessible to third parties without the explicit consent of the persons concerned;
- Involve and consult transgender people in all matters that concern them.

Sincerely Yours,



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