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Press release

Modernisation of the legal recognition procedure for gender identity is indispensable

The Ombudsman deems the draft law of the Ministry of Justice on “Legal Recognition of Gender Identity” which was recently submitted and will be discussed in the Parliament in the coming days, as a positive step.

The central problem, which is highlighted by a series of complaints filed with the Ombudsman by transgender people over the last years, is related to the mismatch between the data shown on the identity card or other identification document and the person's true gender identity and the impediments that this mismatch creates on the enjoyment of the person's fundamental rights. The existing procedure for correction of the birth certificate and identification documents is complex and unclear. In the identification procedure, apart from the recurrent need to provide explanations, very often transgender people face vexatious and offensive comments, affecting their personality. In any event, the distrust, the need for further verification, even the refusal to accept their IDs, turns contact with the relevant services into a source of constant suffering.

The Ombudsman has highlighted the need for speedy, transparent and easily accessible procedures change of identity card and other identification documents for transgender people, based on the principle of self-determination without medical or other conditions. This legislative change was made imperative after the recent decision of the European Court of Human Rights (ECtHR) in the “A.P., Garçon and Nicot v. France” application, whereby the court ruled that the requirement of surgical operations for legal recognition of gender identity, which very often results to sterilisation, violates the provisions of the European Convention on Human Rights. The Ombudsman considers that the ECtHR case, in conjunction with the recommendations reflected in the Council of Europe Resolution 2048/2015, develop the modern framework of human rights for trans individuals.

During public discussion on this draft law, the Ombudsman wrote to the Minister of Justice pointing out all of the above. Furthermore, it stressed the need to re-assess the provision on the exclusion of minors below 17 years of age from correction of their gender data, which is available within the existing legal framework. The Ombudsman considers that the continuation of this possibility for trans and intersex minors, with the necessary procedural guarantees, is an important means of preventing them from being targeted and an indication of respect of their personality.

The provisions of this draft law, while not fully meeting all relevant recommendations, implies significantly change the existing framework and lay the groundwork for further improvements in the future.

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