

# Progress in Legal Gender Recognition measures is slow, Council of Europe report says

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Depathologisation, family rights and access to legal gender recognition for minors are among the key steps that national governments must take to advance the rights of trans people, according to a new Council of Europe report.

LGBTI people's rights, including the concept legal gender recognition (LGR), are adequately protected in many European countries, but there are significant differences, [a recent Council of Europe report reveals](#). 38 countries out of 46 Council of Europe members have LGR procedures in place, out of which nine are based on self-determination. However, in others there are no clear procedures, while some have even rolled back existing protections, leaving trans people at risk of violence and discrimination while their documents do not match their identities.

While the report acknowledges advances in legislation, practices and public attitudes, progress is slow and key actions are needed to depathologise trans people, to protect their relatives from abusive measures, and to ensure access to LGR procedures for minors.

Here are the key findings:

## Depathologisation of gender recognition procedures is urgent

Shocking as it may sound, 13 European countries still require the sterilisation of trans people who want to follow an LGR procedure. This is contrary to the European Court of Human Rights case law, as is demanding medical diagnosis, which 26 countries still do. Finally, there is limited progress in ensuring that being trans is not a mental illness, as well as addressing other issues.

## Married trans people should not be forced to divorce

In 19 member states, married trans people must divorce if they want to access LGR. Trans people are forced to choose between their marriages and their identities because of this requirement, which also has an adverse impact also on their spouses and children, as they will lose family-based rights.

This said, there are positive developments: in six countries being single is not a requirement to access LGR and in nine others marriage certificates are updated accordingly.

## The best interest of the child should come first

LGR is accessible to children and teenagers in 17 Council of Europe member states. The best interest of the child principle should come first when reviewing limits in age, instead of discussions on the maturity of the applicants. When young trans people cannot access LGR, they are at risk of discrimination.

## **What about non-binary, gender-diverse and intersex people? What about non-nationals?**

The Council of Europe encourages member states to learn from each other and to review the necessity of including gender markers in official identity documentation with regard to non-binary, gender-diverse and intersex people. As for making LGR accessible to non-national residents, the European Court's case law may provide guidance when re-evaluating existing restrictions.

## **Other important recommendations**

In the report, the Council reminds that equal treatment laws should come along with equal policy measures and regular monitoring. Countries who have no anti-discrimination legislation are encouraged to introduce it, marking gender identity and sex characteristics as grounds for aggravating circumstances.

[Read the full report here.](#)