

What European countries might soon start recognising non-binary people?

[Blog, Inclusion and Equality, Belgium, Denmark, France, Germany, Iceland, Italy, Legal Gender Recognition, Malta, Non-binary, Trans](#)

Interested in the current state of non-binary rights in Europe? This concise guide covers the most important updates and developments you should be aware of

Current situation

As of 2024, only a few European countries officially recognise non-binary gender markers. Iceland and Germany lead the way, allowing non-binary people to have their identities legally acknowledged. Denmark and Malta partially acknowledge non-binary identities, though issues remain, particularly in areas like the healthcare sector. [You can read more about it in one of our previous blogs.](#) However, progress is slow, and many countries still lack comprehensive legal frameworks for non-binary recognition.

Which countries are next?

France and the SNCF case: potential impact across the EU

Last Thursday (July 11, 2024) the Advocate General of the Court of Justice of the European Union (CJEU) gave his opinion that France's national railway company SNCF should stop forcing passengers to choose between the civil titles "Mr" or "Ms" when purchasing train tickets. This [landmark case](#), brought by Association Mousse, could set a precedent similar to the [Deutsche Bahn case in Germany](#) across the European Union.

In his opinion, which was published earlier this week, the Advocate General of the CJEU said that it is not "necessary" and that it is therefore unlawful for the SNCF to collect individuals' civil titles. The Advocate General also agreed with Association Mousse that processing data on civil titles creates a risk of discrimination on the grounds of gender identity for trans and non-binary people notably as other States legally recognise non-binary identities.

Should the CJEU's judgement align with the opinion of the Advocate General, all organisations collecting gender markers would be forced to stop doing so when it is not necessary for the service provided. The outcome has the potential to influence broader European standards for non-binary recognition, emphasising the role of strategic litigation in advancing rights??.

Belgium's legal hurdles

Belgium's journey towards non-binary recognition has faced significant setbacks. In 2019, the Belgian Constitutional Court declared the existing laws discriminatory towards non-binary people. The government proposed removing gender markers from ID cards entirely, but this reform has stalled due to political and technical challenges?????. Despite these obstacles, there are plans to eventually implement these changes.

Italy on the verge of change

Italy is also nearing a significant decision. The Italian Constitutional Court is expected to rule on the inclusion of a third gender marker. This ruling could trigger legislative changes, inspiring other countries to follow suit and potentially transforming the landscape of non-binary rights in Europe??.

Legal battles play a pivotal role in the fight for non-binary recognition. Cases like the ones in France and Germany highlight how litigation can drive change even when legislative processes are slow. These legal battles and proposed reforms are part of a broader movement toward inclusivity and respect for non-binary identities across Europe.

Beyond laws: the experience of being a non-binary person in EU

The third [EU LGBTIQ survey report](#), published in June by the European Union Fundamental Rights Agency (FRA) offers some insights into non-binary lives. Almost 20% of respondents identified as non-binary, yet more than 90% do not have their identity legally recognised. When delving into the reasons behind this, it becomes evident that non-binary people face unique challenges and perspectives.

The reluctance or perceived lack of necessity for legal gender recognition (LGR) among non-binary people is often due to the accessibility and relevance of existing LGR frameworks. These frameworks typically do not include non-binary options, which discourages non-binary people from pursuing LGR.

For instance, while nearly 60% of trans women and men intend to seek legal gender recognition in the future, only 17% of non-binary respondents share this intention. This disparity suggests that non-binary people might not see current LGR options as applicable or beneficial to their identities, especially considering the potential discrimination they might face in the process.

Additionally, safety concerns significantly impact the daily lives of non-binary people. The FRA data revealed that 23% of non-binary people frequently hide their gender identity for safety reasons, a higher percentage compared to 10% of trans men and slightly more than trans women at 20%. This heightened sense of vulnerability underscores the pressing need for legal recognition and protection.

What do non-binary people want from the law?

Despite developments in Europe and farther afield, we still have relatively little data on what non-binary people want from the law and how they are currently experiencing different legal systems. This is something which ILGA-Europe, along with other civil society partners and a team of academics, will be looking to explore over the coming year. By understanding and addressing the specific challenges faced by non-binary people, we can better advocate for their rights and recognition across Europe.

Here is a list of useful resources for policy-makers and activists on the topic of non-binary rights:

- [Rainbow Map: Legal gender recognition](#)
- [Human Rights and Gender Identity and Expression: Issue Paper by the Council of Europe Commissioner for Human Rights](#)
- [Non-binary gender registration models in Europe: Report on third gender marker or no gender marker options by Lena Holzer for ILGA-Europe](#)
- [Intersections – Diving into the FRA LGBT II Survey data: Trans and non-binary briefing by ILGA-Europe and TGEU](#)